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May 5, 2020

Kathy Bell  
Senior Planner  
Planning and Community Development Department  
City of Bellingham  
210 Lottie Street  
Bellingham, WA 98225

Re: Planned development (PDP2019-0015)/Design review (DR2019-0036)/Height variance (VAR2019-0009)/Critical area permit (CAP2019-0037)/SEPA checklist (SEP2019-0039)  
Project location: 4413 Consolidation Avenue/ Area 17

Dear Ms. Bell:

The CityView Narrative (Section 20, last page) submitted by the Developer, states the allowed Unit Density for the Hawley Replat – Tract F, is 176 units, and states the proposed 106 unit development is less than the allowable Unit Density. Previously, the Puget Neighborhood Work Group has challenged the assumption that the allowable Unit Density is 176 units; in fact this *greatly exceeds the Unit Density* defined of 8.7 units per acre for Area 17 of the Puget Neighborhood.

On February 6, 2020, Phillip Buri, Esq., submitted to the City Planning and Community Development Department a comprehensive review (see Attachment) of the multi-year Hawley Replat process. On behalf of the Puget Neighborhood Working Group, he stated, “They have asked for my help to reveal a flaw in the density calculations for the CityView Proposal site, also known as Tract F to the Hawley Replat.

“This is the story of how a caption on an unrecorded, unapproved lot layout drawing became a phantom density allowance.” The result is, “Because CityView relies on an inaccurate and inappropriately large density allowance, the Puget Neighborhood opposes its development in the current form.

“The question of Unit Density has been a problem with this property, due to the size of the proposed developments, which have been completely out of character with the Comprehensive Plan, Puget Neighborhood plan and surrounding residences. The Puget Neighborhood working group respectfully suggests it is time to start over.”

We are requesting the following:

1. An explanation of how the 176 count, Unit Density was calculated and the back-up materials which support the calculation.
2. An explanation of how the 176 count, Unit Density is “Vested”, under the timeframe provided for in BMC 21.10.260.

Sincerely,

Donald Diebert, Member  
Puget Neighborhood Preservation Work Group

Attachment: Phillip Buri, Esq. Submission to City of Bellingham



**BURI FUNSTON  
MUMFORD FURLONG**

ATTORNEYS AT LAW

PHILIP BURI  
PHILIP@BURIFUNSTON.COM

February 6, 2020

Kathy Bell  
Senior Planner  
Planning and Community Development Department  
City of Bellingham  
210 Lottie Street  
Bellingham, WA 98225



**RE: CityView Proposal, PDP2019-0015; DR2019-0036; VAR2019-0009; CAP2019-0037; SEP2019-0039.**

Dear Ms. Bell:

I represent the Puget Neighborhood Working Group. They have asked for my help to reveal a flaw in the density calculations for the CityView Proposal site, also known as Tract F to the Hawley Replat. Unfortunately, both the name of the site and its location have had as many variations as the calculations. Because CityView relies on an inaccurate and inappropriately large density allowance, the Puget Neighborhood opposes its development in the current form.

### INTRODUCTION

This is the story of how a caption on an unrecorded, unapproved lot layout drawing became a phantom density allowance. On November 15, 1993, Jepson and Associates produced a set of project plans for Exxel Development Company. (Exhibit H). On page 7 of the plans, an undeveloped portion of the site, labeled "Area B", noted a designation of 176 units. Neither the plans nor any accompanying documents explain where this number came from. It is the first mention of a density allocation, which reappears sporadically in plat maps that have never received public review, let alone approval.

The proposed CityView relies on this phantom density allowance without answering *why the Unit Density for the Hawley Replat - Tract F is 176 units?* This density is approximately twice that allowed under the City of Bellingham - Zoning Table for Area 17 of the Puget Neighborhood. It also underlaid several development plans, never approved or built, that proposed huge, out of character multi-unit buildings that would have dwarfed the surrounding single-family residential neighborhood. For years, the Puget Neighborhood Association has challenged the phantom density allowance and the proposed developments that seek to exploit it. This letter provides the City with the most comprehensive

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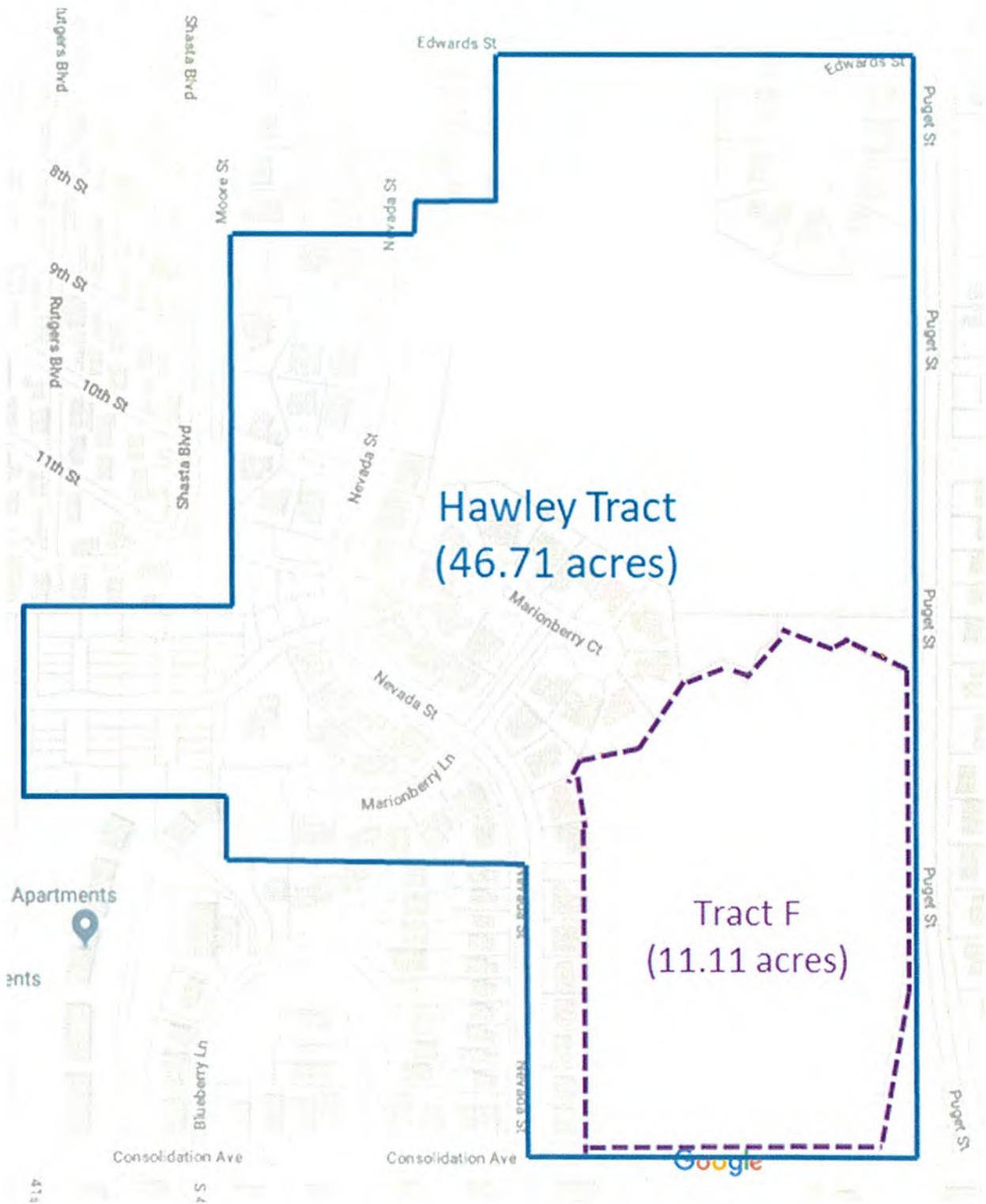
investigation into the source of this mystery number. We ask that the City reject the phantom density for good and require CityView's proponent to provide an accurate density calculation.

Our review of the public record leads to three conclusions:

1. **THE CITY HAS NEVER CALCULATED OR APPROVED THE UNIT DENSITY FOR TRACT F.** Review of the public process and official actions involving the overall Hawley Replat starting in 1994, shows that assignment of a Unit Density to the current Tract F was *never explicitly identified in the Bellingham City Council Agenda Bills or Resolutions*. A review of public documents reveals that no Unit Density designation is explicitly defined by official action and filed for the subject property.
2. **THE CONFUSING PLAT MAPS MERELY REPEAT AN ERRONEOUS ASSUMPTION.** Since Unit Density was never explicitly defined for the current Tract F, the fallback has been to cite notations printed on the various plans (Plat Maps) as reporting Unit Density. Unfortunately, the notations on the Plat Maps are confusing, lack definition, or omitted from official filings. For example, the original Project Lot Layout includes a printed notation for "Area 'B' Future Development (176 Units)". However, Area "B" is not defined as to size, physical location or boundaries. Regardless of the size or configuration of the remaining undeveloped portion of the Hawley Replat, the developer puts the "176 Units" label on it.
3. **THE APPROPRIATE DENSITY CALCULATION ACCOUNTS FOR CURRENT CONDITIONS.** Since the original project plan was submitted, and resulting process, reviews and filings have occurred, additional issues have arisen. For example, the original proposal did not include multi-unit residential development in what is now Tract F. Other actions, such as the Wetlands/Open Space dedication, resulted in post hoc agreements that conflict with earlier actions. These all have impacts on Puget Neighborhood and the appropriate density for any development on Tract F.

The City has yet to conduct the required public process to determine the appropriate Unit Density for Tract F. Until this is completed, any review of the CityView proposal is premature.

**MAP 1: BOUNDARIES - HAWLEY REPLAT AND TRACT F**



Map 1 shows the original Hawley Replat boundaries (blue line) and the current Tract F boundaries (purple line).

## 1. UNIT DENSITY – NEVER DEFINED FOR TRACT F.

The City's public records establish that the process required by the original Council Resolution for the Hawley Replat – Preliminary Plat (Exhibit C, page 8, Future Phases), never occurred for the subject area, Tract F.

Throughout the process, none of the City Council Agenda Bills included notice of a Unit Density designation for the portion of the Hawley Replat that would eventually be designated Tract F. All other portions of the Hawley Replat included an explicit Unit Density designation in the text of the Agenda Bills and resulting City Council Resolutions.

### A. Planning Commission and Planning Department Report

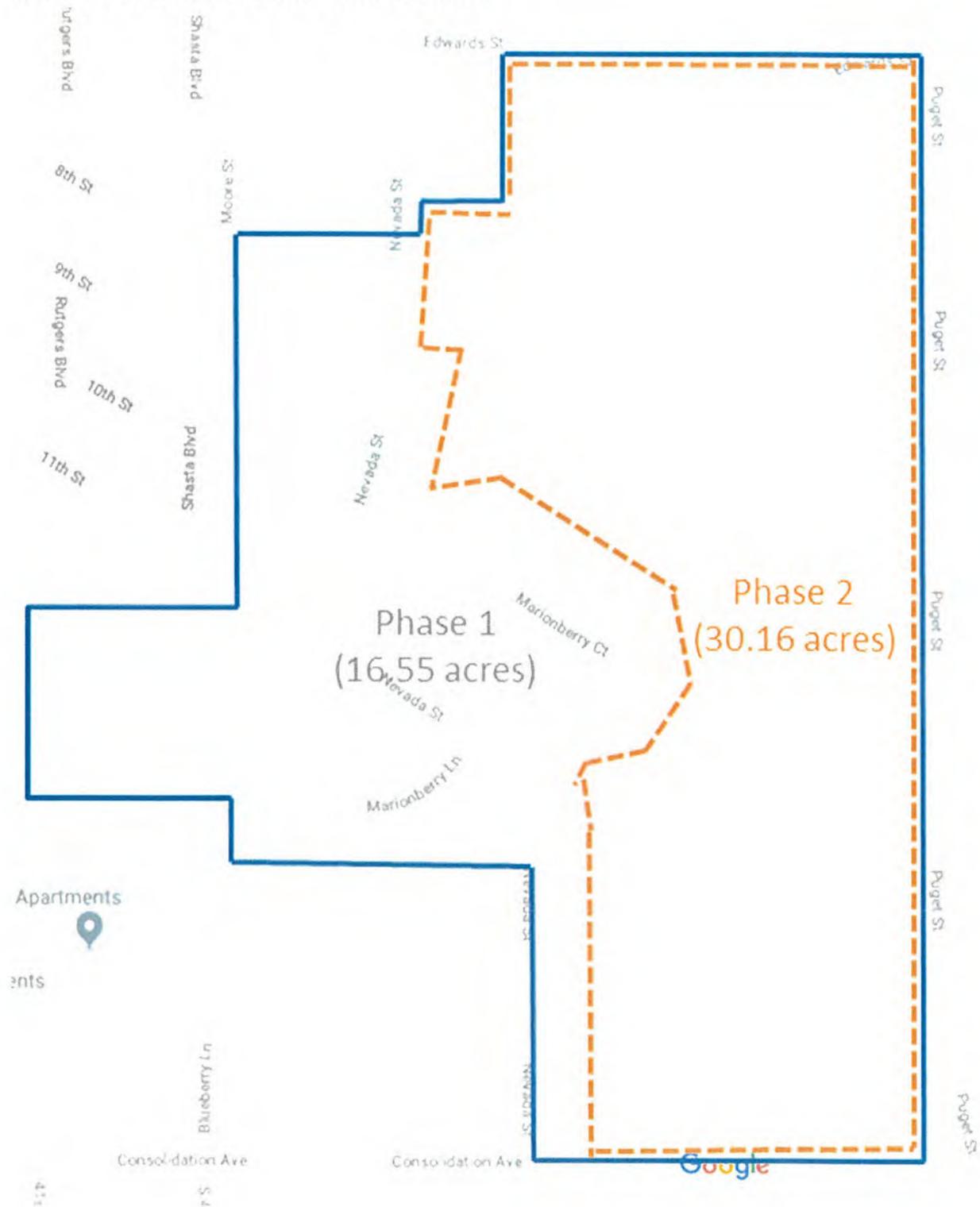
The Agenda Bill (11302, April 25, 1994), Attachment A, presents the findings of the Planning Commission including Staff Analysis (Planning Department).

- 1) In the Findings of Fact (Exhibit A, page 4, Existing Site Conditions, Acreage), 123 units were defined as Phase 1, containing 16.55 acres, and Phase 2 (*no unit density identified*) on 30.16 acres, "located in the eastern region of the Hawley Property, *contains the most severe slopes on the property and will require additional review prior to development.*" (emphasis added)
- 2) Under Applicable Comprehensive Plan Goals and Policies (Exhibit A, page 5, Vision for Bellingham Goals, paragraph 1) the report states, "Because infill is a major growth strategy, Bellingham devotes considerable energy in determining how to accommodate growth in existing neighborhoods *in a manner that complements neighborhood character.*" (emphasis added)
- 3) Future Phases of Development (Exhibit A, page 7) states, "Because of the environmental constraints, development of future phases *east of phase 1 will require additional staff and public review.*" (emphasis added). From the same report (Exhibit A, page 9), "However, due to environmental constraints, *it will be extremely difficult to achieve maximum density on the property.*" (emphasis added)

The City recognized from the earliest stage that before Phase 2 is permitted for development, additional review would be required to assure the goals of the Comprehensive plan are realized. Careful determination of an appropriate Unit Density would be critical on a property that has significant environmental constraints.

*Map 2 shows the original Hawley Replat boundaries (blue line) and the Phase 1 boundaries (western part of property) and Phase 2 (orange line).*

## MAP 2: BOUNDARIES – PHASE 1 AND PHASE 2



## 1. UNIT DENSITY – NEVER DEFINED FOR TRACT F (continued)

### B. City Council Agenda Bills and Resolutions

From 1994 through 2002, starting with the Preliminary Plat and ending with the Final Plat, the City Council reviewed and approved various developments within the Hawley Replat. *The City Council never reviewed or approved a Unit Density for Tract F.*

- 1) City Council Resolution (No. 19-94, April 25, 1994), states in the General Notes (Exhibit C, page 4) that the Hawley's Replat Plat Area included Phase 1 – 16.55 acres, consisting of 123 units; Phase 2 – 30.16 acres, *with no Unit Density.*
- 2) City Council Resolution (No. 2002-24, July 15, 2002), states it is, "A resolution granting Final Plat approval for the preliminary plat of Division 2, consisting of 48 single family lots, 1 duplex lot, 1 triplex lot, 1 fourplex lot, a 50-unit multifamily tract and *a reserve tract [emphasis added]* located in Area 17 of the Puget Neighborhood" (Exhibit E, page 1, paragraph 1). *No Unit Density was included for Tract F.*
- 3) City Council Resolution No. 2002-24, continues by reference the requirements of the Preliminary Plat Resolution 19-94, "attached hereto as Attachment 2, and made part hereof by reference as though set forth fully herein." (Exhibit E, page 7, Future Phases), that additional public review is required before development.

In 2013, the Hearing Examiner (Exhibit G, page 3, sentence 2) restates that, "The tract labeled Future Development is the subject property. *The plat conditions provide that additional public review would be required prior to development of the reserve tract.*" (emphasis added)

## 2. PLAT MAPS – CONFUSION AND OMISSIONS

The various Plat Maps included with the Agenda Bills and Resolutions created the confusion over the allowed densities, incorporating notations that are inaccurate, lack definition, or omitted crucial information from filed documents.

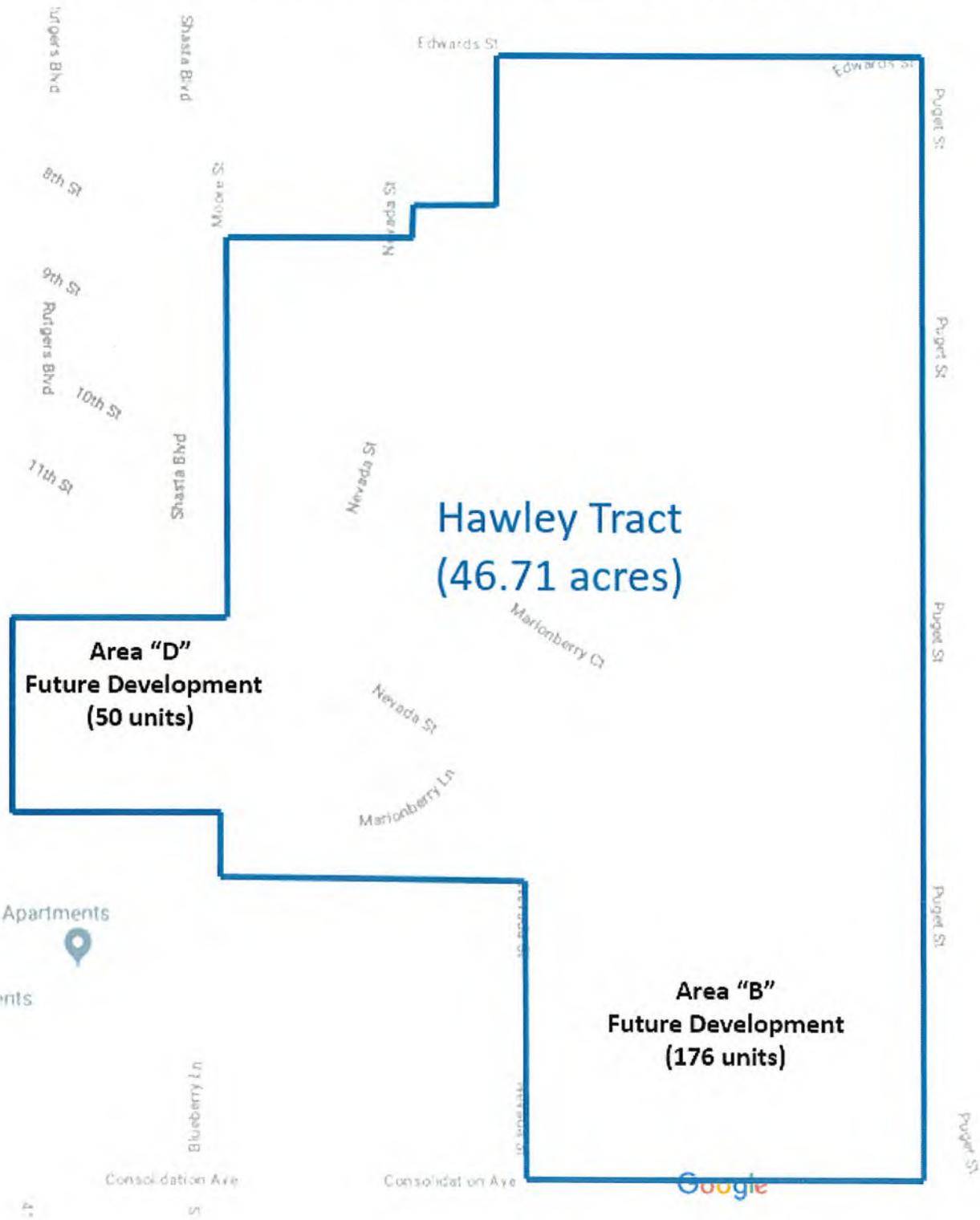
### A. Original Project Plan

The original Proposed Lot Layout (dated 11/15/93) for the Hawley Tract (see Exhibit H) has numerous notations that are undefined as to size, physical location or boundary.

- 1) The initial Proposed Lot Layout (Exhibit H, pages 2 and 6) for the Hawley Tract (46.71 acres), included two notations; "Area "B" Future Development (176 Units)", and "Area "D" Future Development (50 Units)", for a total of 226 units. *No definition is provided for Area "B" or Area "D" as to size, location or boundaries.*
- 2) The Agenda Bill (11302, April 25, 1994), Findings of Fact (Exhibit A, page 4, Existing Site Conditions, Acreage), shows 123 units were defined as Phase 1, containing 16.55 acres, and Phase 2 (*no unit density identified*) on 30.16 acres, "located in the eastern region of the Hawley Property." The Proposed Lot Layout does not include a notation identifying Phase 1 or 2; *no Plat Map attached to Agenda Bills or Resolutions includes these designations.*
- 3) The printed notation for Area "B", in the lower right corner, on the Proposed Lot Layout (Exhibit H, page 6), is likely the source of the assumption that the Unit Density for Phase 2 and eventually the smaller Tract F, is 176 units.

*Map 3 on the next page shows the original Hawley Replat boundaries (blue line), with the Area "D" and Area "B" notations from the Original Project Layout.*

**MAP 3: AREA "B" AND AREA "D" NOTATIONS FROM PROPOSED LOT LAYOUT**



**2. PLAT MAPS – CONFUSION AND OMISSIONS (continued)**

**B. Unit Density Reconciliation – Original Project Plan with Preliminary Plat Approval (1994)**

The Public Hearing on April 25, 1994 (Exhibit B, page 2, Public Hearing, paragraph 1, sentence 4) included a statement that *164 single family lots were planned.*

- 1) The Original Project Plan (Attachment A, page 11) identified only 64 single family lots, *leaving 100 lots (164 less 64 identified on the Plat Map) that were not identified as to location on the Hawley Plat.*
- 2) This statement appears to *preclude future development that is high-density* since the plan being presented was for single family lots with a minimum of 5,000 square feet.

The following (Table 1) reconciles the Original Project Plan with the Preliminary Plat Approval (1994). As shown on Table 1, the Original Project Plan (Plat Map) printed Unit Density notations for Area "B" and Area "D" (226 units), match the total Unit Density presented to the City Council by the Planning Department (226 units).

**TABLE 1: ORIGINAL PROJECT PLAN UNIT DENSITY RECONCILIATION WITH CITY COUNCIL RESOLUTION**

<b>Original Project Plan</b>	<b>Units</b>
Area "B" Unit Density (notation on Plat Map)	176
Area "D" Unit Density (notation on Plat Map)	50
<b>Total - Proposed Unit Density</b>	<b>226</b>
<b>City Council Resolution No. 19-94, April 25, 1994 (Preliminary Plat Approval)</b>	<b>Units</b>
<i>City Council Meeting - Planning Department Presentation</i>	
Total Single Family Lots Planned (City Council Minutes)	164
Less: Single Detached included in Phase 1 (see below)	(64)
Subtotal - Single Family Lots (not identified in Phase 1)	100
<i>Agenda Bill 11302 - Phase 1</i>	
Single Detached (units)	64
Duplex (2 units), Triplex (3 units), Fourplex (4 units)	9
Multiple (units)	50
Subtotal - Phase 1 Units	123
<i>Agenda Bill 11302 – Dedications</i>	
Lots 5, 6, 7 dedicated to Rain Garden	3
Subtotal - Dedications	3
<b>Total - Proposed Allocation of Unit Density</b>	<b>226</b>





### 3. DENSITY SHOULD ACCOUNT FOR CURRENT CONDITIONS.

Since the initial plan was submitted, and the resulting process, reviews and filings have occurred, additional issues have arisen.

#### A. Single Family Lot Designation Issue

The Public Hearing on April 25, 1994 (Exhibit B, page 2, Public Hearing, paragraph 1, sentence 4) included a statement that *164 single family lots were planned*.

- 1) This statement appears to *preclude future development that is high-density* since the plan was for single family lots with a minimum of 5,000 square feet.
- 2) The original Proposed Lot Layout (Exhibit H), did not include multi-unit development in what is now Tract F, consistent with the statement in the Public Hearing.
- 3) The Plat Map included with the Resolution No. 2002-24 (Exhibit E, page 3, Attachment 1), has a printed notation, "Tract F – Multi Site," which conflicts with the earlier statements that single family lots were planned.

#### B. Final Plat – Cedar Ridge Division 2 (formerly Hawley Replat)

The final Plat filing for Cedar Ridge Division 2 (revised title for the Hawley Replat) introduced additional confusion and issues.

- 1) The Plat Map included with the Resolution No. 2002-24 (Exhibit E, page 3, Attachment 1), consists of one map, and an entry in the lower right-hand corner for "Tract F – Future Multi Site". *This was the first time the notation "Tract F" appears on any document for the Hawley Replat.*
- 2) No definition is included on the Plat Map (Attachment 1) for Tract F as to size, location or boundaries.
- 3) None of the City Council Agenda Bills or Resolutions ever included an explicit reference to Tract F.
- 4) Attachment 1 *does not show a Unit Density*. This is consistent with the text of the Resolution which states that, "Whereas, the City has received a request to finalize Division 2 of the Cedar Ridge, consisting of 48 single family lots, 1 duplex lot, 1 triplex lot 1 fourplex lot, a 50-unit multifamily tract, *and a reserve tract (site plan attached as Attachment 1).*
- 5) The Hearing Examiner Report (see Exhibit G, page 3, item 7) states, "The Final Plat Resolution shows a site plan identifying the

subject property as Tract F, Future Multi Site, see Sheet 4 of 4. *Sheet 4 is not attached to the Final Plat Resolution.*" (emphasis added). Nothing in text of the ordinance or the plat map assigns a Unit Density to Tract F.

### **C. Discrepancies between Resolution 2002-24 and the Plat Filing**

The Cedar Ridge Division 2 Plat was filed with the Whatcom County Auditor on July 23, 2002. This filing was done on behalf of Peoples Bank, Irving H. Hawley Jr. and Joan Hawley. The attached Plat Map shows a Tract F, with a notation of 11.16 Acres, Future Units – 176 units (Exhibit F, page 5).

- 1) The Hearing Examiner Report (Exhibit G, page 3, item 7) states, "The Final Plat Resolution shows a site plan identifying the subject property as Tract F Future Multi Site, see Sheet 4 of 4. Sheet 4 is not attached to the Final Plat Resolution." However, the text of Resolution 2002-24 did not include an explicit Unit Density to Tract F.
- 2) The Filing of the Plat Map was a separate action performed by the *property owners and their representatives* after Council approval of Resolution 2002-24. Unlike other Resolutions previously identified, there is apparently no record of Resolution 2002-24 having been formerly filed with the Whatcom County Auditor that included a Unit Density designation for Tract F.

### **D. Wetlands Dedication – Unit Density Reduction Issue**

The agreement recorded in the Conversation Easement (Exhibit D, page 1), states that allowable Unit Density is reduced by 100 units. This raises numerous issues:

- 1) The net results of the reduction in Unit Density is unknown; the remaining units are defined as to size, physical location or boundaries.
- 2) The reduction of Unit Density due to the Wetlands Dedication is never referenced in future Agenda Bills or Resolutions.
- 3) It appears that no reduction of Unit Density has been applied to any portion of the Hawley Replat, in spite that it is part of the Wetlands Dedication that was required to gain approval of the Preliminary Plat Plan.

## CONCLUSION

For 25 years, what is now the Hawley Replat Tract F has been a conundrum for all involved, the property owner, developers and especially the neighborhood. The phantom Unit Density of 176 has resulted in numerous efforts to develop a property beyond what is feasible. This is truly an example of trying to fit a square-peg in a round-hole. No matter how much you try to make the peg fit (height, length, geology, environment, neighborhood compatibility), it just doesn't work.

The Hawley Replat was a multi-year process that in the case of Tract F, is still a major issue for the community. The question of Unit Density has been a problem with this property, due to the size of the proposed developments, which have been completely out of character with the Comprehensive Plan, Puget Neighborhood Plan and surrounding residences. The Puget Neighborhood working group respectfully suggests it is time to start over, using the City's own Infill Toolkit to bring all parties together, to move forward with development that fits and expands housing in the City of Bellingham.

Sincerely,

BURI FUNSTON MUMFORD & FURLONG, PLLC



Philip Buri

## EXHIBIT LIST

- A. Bellingham City Council Agenda Bill No. 11302, April 25, 1994
- B. Bellingham City Council Meeting Minutes, April 25, 1994
- C. Bellingham City Council Resolution No. 19-94, April 25, 1994
- D. Conservation Easement and Deed, December, 1994
- E. Bellingham City Council Resolution No. 2002-24, July, 15, 2002
- F. Cedar Ridge – Division #2 Plat Filing No. 202703650, July 23, 2002
- G. Findings of Facts, Conclusions of Law and Order, City of Bellingham Hearing Examiner, HE-13-PL-007, October 23, 2013
- H. Proposed Lot Layout, November 15, 1993

BELLINGHAM CITY COUNCIL AGENDA BILL

F I I F

SUBJECT	FOR AGENDA OF	COUNCIL ASSIGNMENT	BILL NUMBER	
Consideration of preliminary plat approval of a 123 unit subdivision commonly known as the Hawley's Replat. The subject plat is located along the extension of Nevada Street, between Consolidation and Edwards Streets.				
			RECVD IN CITY COUNCIL OFFICE	
ATTACHMENTS	CLEARANCES:		INITIAL	DATE
Planning Commission Findings of Fact Vicinity Map Proposed Plat Map Original Plat Design Neighbor's Letter	Patricia R. Decker, PCDD Director			
	Joann R. Smith, Planning Manager	JKS	4/20/94	
	Dawn Sturwold, Asst. City Attorney			
	Rob Ney, Associate Planner	RW	4/20/94	
PUBLIC HEARING	y			
<p><b>SUMMARY STATEMENT</b></p> <p>Consideration of preliminary plat approval for the Hawley's Replat, located along the extension of Nevada Street north of Consolidation Street and south of Edwards Street. The Hawley's Replat consists of 64 single family lots, 1 duplex lot, 1 triplex lot, 1 four-plex lot, and a 50 unit multi-family tract (123 total units).</p> <p>The Planning Commission considered this application on March 17, 1994 and unanimously approved the proposal subject to a minor plat re-design and open space dedication.</p>				
<p><b>RECOMMENDED ACTION</b></p> <p>Recommend approval of the Hawley's Replat Preliminary Plat subject to the Technical Review Committee and Planning Commission conditions/requirements. Direct staff to prepare a resolution for review in committee.</p>				
<p><b>COMMITTEE RECOMMENDATION/ACTION</b></p>				
<p><b>COUNCIL ACTION</b></p>				

abapr1.18

**CITY OF BELLINGHAM  
PLANNING COMMISSION  
FINDINGS OF FACT AND CONCLUSIONS  
MARCH 17, 1994**

**Re: HAWLEY'S REPLAT - PLANNED RESIDENTIAL SUBDIVISION**

**OVERVIEW**

**SUMMARY**

A request for preliminary plat for a 123 unit planned residential subdivision consisting of 64 single family lots, one duplex lot, one triplex lot, one four-plex lot, and a 50 unit multi-family tract.

**LOCATION**

The subject property is the old Hawley's Poultry Farm located along the extension of Nevada Street, between Consolidation and Edward Streets.

**MAJOR ISSUES**

Nevada Street extension, future development on up hill property.

**STAFF RECOMMENDATION**

Approve Phase 1 with conditions.

**PLANNING COMMISSION  
RECOMMENDATION**

Approval with conditions

**Background/Prior Hearings**

**Historical Use of the Property:**

Since 1920 this site has been used for rural farming activity. For many years the Hawley's Poultry Farm operated from the site. As early as 1920, the western half of the site (relatively flat) was cleared for farming activity.

**Neighborhood Meeting:**

The applicant held a neighborhood meeting on December 20, 1993. Neighborhood concern included the connection of Nevada Street between Consolidation and Edwards Streets and preservation of the forested hillside.

**Documents Considered**

Staff Report, Public Testimony

105.FFC (1)

**Public Hearing**

**TESTIMONY**

Please see the attached draft minutes from the March 17, 1994 Public Hearing.

**STAFF/TECHNICAL REVIEW COMMITTEE RECOMMENDATION**

Approve the design of phase 1 subject to the conditions listed in Appendix A.

Based upon the application, record and public hearing held March 17, 1994, the Planning Commission makes the following:

**FINDINGS OF FACT**

1. **Applicant/Initiator**

Excell Development  
(Keven DeVries, Contact)  
335 Telegraph Road  
Bellingham, WA 98226

Ron Jepson and Associates  
Engineer  
222 Grand Avenue, Suite C  
Bellingham, WA 98225

2. **Proposal**

Excell Development owns 46.71 acres located north of Consolidation, south of Edwards Street, east of Moore Street, and west of Pacific Street.

There are 123 units proposed in Phase 1 consisting of 64 single family lots, one duplex lot, one triplex lot, one four-plex lot, and a 50 unit multi-family tract. The project will extend Nevada Street between Consolidation and Edward Streets.

Future phases of development will require additional review by staff, the Planning Commission, and Council.

3. **Site Description**

**LEGAL DESCRIPTION**  
See attached

**COMPREHENSIVE PLAN DESIGNATION**  
PUGET NEIGHBORHOOD Area 11

This is a largely undeveloped area which includes wet areas, hillsides and areas which are relatively flat. The area is an ideal multiple housing area,

0005.FFC (2)

being convenient to town, parks, and commercial areas. As this area develops, warrants for a traffic light at Lakeway and Nevada should be analyzed. Higher densities should be allowed on the level, dry areas, while the wet areas and steep areas should remain open. Water lines for development within this area must be carefully designed to provide adequate fire flow.

General Use Type	:	Residential - Multi.
Use Qualifier	:	Planned.
Density	:	5,000 square feet per unit overall density.
Special Conditions	:	Clearing, view, no access to Lakeway via Nevada or Puget Streets from that area south of Edwards Street, water distribution system design.
Prerequisite Considerations	:	Whatcom Street to Nevada Street and Nevada Street from Whatcom to Lakeway should be improved prior to development north of Edwards Street.

#### APPLICABLE COMPREHENSIVE PLAN GOALS AND POLICIES

- \* Residential Multiple Planned designation should accommodate a variety of residential uses in a manner which will allow property to be developed as a coordinated unit according to an approved detailed plan in order to achieve flexibility to solve site specific problems, minimize impact on surrounding properties, and maximize utilization of the land.
- \* Steep hillside areas and stream corridors or low wet areas are recommended as a general theme for open space patterns in future development.
- \* To preserve the visual integrity of the wooded hillsides which provide the backdrop for the City and many of the neighborhoods and to preserve the bluffs and slopes that reinforce the edge between water and City. Also to preserve the natural integrity of these areas by retaining vegetation, minimizing disruption of soils and slopes, maintaining drainage patterns, and encouraging wildlife habitats.
- \* Provide a functional, convenient, safe and pleasant bicycling and pedestrian transportation network in the City.



Plat Density: 5,000 square feet per unit overall density required.

Phase 1 - 123 units on 16.55 acres = 7.4 units per acre.

Phase 1 Single Family - 64 lots on 12.37 acres = 5.1 units per acre.

Topography: The entire property has a natural slope from east to west up to 30%. Phase 1 is gently sloped and is located in the lowest and flattest portion of the site. Phase 2, located in the eastern region of the Hawley property, contains the most severe slopes on the property and will require additional review prior to development.

Hydrology: The Hawley site is located in the Lincoln Creek watershed. This watershed is 803 acres in size and drains the northwestern portion of Samish Hill. All surface water runoff collects in Lincoln Creek and empties into Whatcom Creek at its terminus.

The local geology consists of bedrock, primarily sandstone, overlain by glacial material. The springs and hillside seeps found here produce numerous intermittent streams in the area. This is the source of water, in addition to direct precipitation, that feeds the wetlands on the Hawley farm.

Infrastructure:

Streets: Nevada Street abutting proposed Lots 31-37 is 3/4 City standard with sidewalk, curb, gutter, and street lights on western side. Nevada Street south of Consolidation Avenue is improved to minimum City standards. Nevada Street north of the proposed development has approximately 16 feet of paved surface with open ditches.

Water/Sewer/  
Stormwater:

Utilities are currently available from the south. All new extensions shall be consistent with the Public Works infrastructure plan for the area.

## 6. Staff Analysis

### Land Use:

Area 11 of the Puget Neighborhood is zoned for multi-family development at 5,000 square feet per unit (8.7 units per acre). The entire site (Phase 1 and 2) is comprised of 46.71 acres and current zoning would allow a maximum of 406 units. However, due to environmental constraints, it will be extremely difficult to achieve maximum density on this property.

Phase 1 consists of 123 units in a mix of single family and multi-family housing types. This meets the intent of the Residential Multiple Planned Land Use Designation.

### Streets:

#### Nevada Street Dedication:

The Nevada Street right-of-way connecting Consolidation and Edwards Street was dedicated as a plat condition of the Briarwood Subdivision (see attached). However, this dedication was platted over a regulated wetland. The plat design under consideration will vacate the former right-of-way and dedicate a new Nevada Street right-of-way west of the original dedication. The new alignment will reduce the impacts to regulated wetlands. A City of Bellingham Wetland Permit and Army Corps of Engineer's permit must be issued for impacts/fill to regulated wetlands. (See attached Memo from Chris Spens, Senior Environmental Planner.)

#### Nevada Street Connection:

It has been the position of the City that the Nevada Street connection is an important circulation element in this area. This link will allow an alternative route to I-5 without using Lakeway Drive. For additional background, please see attached memo from Tom Rosenberg, City Engineer.

**Plat Vacation:**

Once approved and filed with the Whatcom County Auditor's office, this subdivision will vacate portions of the Cedar Addition to Whatcom Plat and streets/alleys located within the plat. (The Nevada Street right-of-way was dedicated by the property owners with the understanding that this plat would be vacated and the owner would not have to compensate the city for vacated rights-of-way.)

**Parks/Open Space:**

The subdivision ordinance requires applicants to dedicate 100 square feet per lot within the plat boundary for parks and open space. In lieu of park dedication, a \$300.00 per lot payment into the Park Acquisition Fund is allowed.

If dedication of open space occurs within the Hawley Replat boundary, the preferred location would be within Phase 2 along the wooded hillside. Staff would support dedication for the entire property at this time. Said dedication should occur within the boundary of future Phase 2 and should incorporate the forested hillside areas and identified wetland areas.

If dedication of open space for the entire property is not feasible at this time, staff would prefer payment into the park acquisition fund in lieu of dedication for Phase 1.

In addition, staff may propose an open space dedication upland as mitigation for wetland fill. Please see attached memo from Chris Spens.

**Wetlands:**

A wetland determination indicated there are 13.1 acres of wetlands on this site. Wetlands such as these that are located higher up in the drainage are very important for flood control downstream because they store water so effectively and then "meter" it out slowly. Wetlands of this size can be very valuable if a physical connection to other wetlands or open space is retained.

As more vegetation is removed from the watershed, particularly trees, drainage patterns are altered and there is a greater volume of runoff which can overwhelm downstream capacity. Greater runoff volumes can also have a damaging effect on the wetlands if the water level fluctuation is dramatic.

Future Phases of Development:

Because of environmental constraints, development of future phases east of Phase 1 will require additional staff and public review.

6. **ADDITIONAL FINDINGS AND SPECIFIC SITE FACTS**

- 1) The proposed layout of Lots 1-4 would require partial fill of a forested wetland.
- 2) The extension of Nevada Street would allow multi-dimensional circulation in this area.
- 3) Open space/parks dedication is preferred over payment in lieu of land dedication.

Based upon the above findings, the Commission makes the following:

**CONCLUSION**

- 1) The plat should be modified to redesignate or eliminate proposed Lots 1-4.
- 2) Nevada Street should be connected between Edwards and Consolidation Streets.
- 3) Open space/parks dedication for all phases of development should occur in the area designated within the boundary of future Phase 2.
- 4) Additional open space should be dedicated as mitigation for wetland fill.





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Council Minutes for April 25, 1994 City of Bellingham, WA

**RECORD OF PROCEEDING OF CITY COUNCIL  
CITY OF BELLINGHAM, WASHINGTON**

**BELLINGHAM SENIOR ACTIVITY CENTER**  
Monday, April 25, 1994, 07:00 PM  
Book: 48, Page: 1

**REGULAR MEETING**

Called To Order The meeting was called to order by Council President Arne Hanna with a salute to the flag.

Roll Call

*Present:*

First Ward Councilmember Don Gischer  
Second Ward Councilmember Gene Knutson  
Third Ward Councilmember Arne Hanna  
Fourth Ward Councilmember Bob Hall  
Fifth Ward Councilmember Pat Rowe  
Sixth Ward Councilmember Bruce Ayers  
Councilmember At Large Louise Bjornson

*Excused:*

ANNOUNCEMENT(S)

LAKE WHATCOM MANAGEMENT COUNCIL SUB-COMMITTEE MEETING, FRIDAY, APRIL 29, 1994, AT 9:30 AM, IN THE POLICE TRAINING ROOM ON "C" STREET (ENTER THROUGH THE PEDESTRIAN GATE IN THE PARKING LOT).  
APPROVAL OF MINUTES

15 - MINUTE PUBLIC COMMENT PERIOD

1. Cry: Kemp, 2700 W. Connecticut, addressed the Henifin project in the Squaticum Parkway area and presented a handout from the Planning Commission dated August 1981 regarding the zoning definition of planned industrial for this site. She also requests that this area be given consideration for the placement of a park.

With no further comment, the public comment period was closed.

PRESENTATION

**AB11301 1. BUILDING INDUSTRY ASSOCIATION (ART CASTLE)**

Mr. Castle, Director of the Building Industry Association conveyed that he is relocating to Kitsap County in one week and he introduced his successor, Valerie Smith. Ms. Smith has ten-years of experience in working with non-profit and trade associations in Denver before she and her family moved here a couple of years ago. She has been the Activities and Events Director who was largely responsible for the success of this year's Home Show. Ms. Smith spoke briefly and said that she looks forward to working with the community and learning about the issues before the Building Industry Association. Councilmember Ayers expressed his gratitude to Mr. Castle for bringing the organization into a leadership role in the community, and for his positive approach to the issues, and added that he would be missed. Councilmember Rowe praised Mr. Castle's energy level and also stated that he would be missed. Councilmember Hall gave a fond farewell to Mr. Castle and thanked him for the inspiration he provided. Councilmember

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Council Minutes for April 25, 1994 City of Bellingham, WA

Knutson led in a final farewell to Mr. Castle via a round of applause from all.

**PRESENTATION(S)**

**PUBLIC HEARING(S)**

**AB11302 1. CONSIDERATION OF PRELIMINARY PLAT APPROVAL OF 123-UNIT SUBDIVISION, COMMONLY KNOWN AS THE HAWLEY'S REPLAT, LOCATED ALONG EXTENSION OF NEVADA STREET, BETWEEN CONSOLIDATION AND EDWARDS STREET.**

Rob Nye, Planning Department, made the staff presentation. The plat consists of a 123-unit planned residential subdivision located along Nevada Street between Edwards Street and Consolidation Ave. The development of approximately 17 acres is planned with approximately 15 acres dedicated for park and open space. There are 164 single family lots planned, all of which satisfy the 5,000 square foot density requirements. In addition, one duplex, one triplex, one four-plex, and a 50-unit multi-family tract are planned which will require planned residential review by staff once they are presented for approval. The project includes full standard improvements of Nevada Street within the property (28-foot full standard street with curbs, gutters, street lights, and street trees on both sides), and realignment of the existing Nevada Street right-of-way (slightly west of the current designation, which is part of the Briarwood Subdivision). The realignment of Nevada Street is suggested in order to mitigate minimal impacts to wetlands that are in the area. In addition, vacation of the Cedar addition is proposed, which is located in the northern most part of this property. The Planning Commission recommended approval of this application subject to minor changes such as pursuing an open space dedication in the future Phase II area, and relocating a small tier of lots on the eastern side of Nevada Street. One of the issues facing this subdivision deals with the extension of Nevada Street between Consolidation and Edwards Streets as the neighbors do not want to see this as a through street and some thought it would remain a dead-end street. Another issue is the drainage and wetland impacts of the subdivision.

Ron Japson, the engineering consultant for the applicant, Excell Development, stated that this project has been before the City for approval for 2 years. Of concern is the traffic considerations at the I-5/Samish overpass area. The Briarwood development had obtained approval for their development with the condition that they obtain a right-of-way to connect the development to the north with Nevada as it was platted at that time. Mr. Hawley, then-owner, dedicated a 60-foot strip to the alignment which was approved by the Public Works Department, connecting the existing-platted Nevada with Consolidation on the south. Briarwood was constructed under those terms. The traffic impacts ordinance was then adopted which opened up the opportunity for developed areas that created traffic impacts to be assessed an impact fee for each lot being developed at the time of building permit issuance. A detailed wetlands analysis was performed and the alignment that was previously dedicated for Nevada went through wetlands more than was necessary. They asked the City to modify the alignment which is a current condition of this plat. There were approximately 11 acres of wetlands identified in this project and during discussions with Planning Staff, it was determined that the upland area between the wetland area identified and Puget Street, could be preserved. Mr. Hawley agreed that he would add the wooded area from Puget Street to the wetlands already designated, making a total of 15 acres dedicated for park and open space. The proposed alignment of Nevada Street, which connects the existing 44th Street in Briarwood, is an alignment which circumvents the wetlands area. The Hawley residence is a larger parcel connected to this development. The neighborhood meetings held to date revealed an issue relating to the Nevada Street connection and may be a misunderstanding in that Nevada Street is desired by the City to connect Lakeway Drive with Consolidation. The plan for connecting Nevada was decided by Public Works at the time of the Briarwood Subdivision approval. The drainage issues will be handled with the wetland dedication and retention requirements.

The public hearing was opened.

1. Irv Hawley, owner of the property and partner in the development of the property, stated that his family has waited for many years before selling the property until an acceptable plan came forth that they could be involved in and be proud of. He stated that this development is such a plan and he asks for Council approval of this development.

Councilmember Hanna asked for the dollar figure of the transportation impact fee imposed for each lot. Clark Williams, Public Works, answered that each lot would be assessed \$270 for the Samish/I-5 interpass improvements.

2. Mike McKinstry, P.O. Box 1026, East Sound Washington, the Vice President of Future Spec Homes, relayed that he is currently developing 50 homes on 44th and 43th Streets and that they have developed 10 homes in the Briarwood Subdivision. He suggests not continuing Nevada and stopping it before it comes into Briarwood if the street is only going to serve 10-12 units on the east side of Nevada Street. The traffic impacts on the neighborhoods would be a detriment to the community.

3. Bonnie Johnson, 1020 Puget, expressed concern over the proposed traffic at Puget and Lakeway and potential problems with the children traveling to school and using the crosswalks due to limited sighting distance where Edwards meets Puget. It appears to be

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an accident potential and a hazard for the children. The local access only signs in Pacific View are not helping and the average speed is 40 mph in that area with some speeds close to 50 mph when they reach Edwards and Puget.

Clark Williams, Public Works, responded that there is a one block length (about 2 blocks south of Lakeway Drive) that connects Nevada Street with Puget Street, but this length is not a public street, it is a private access road. If this became a cut-through route for motorists, the City would mitigate the traffic as this is not a City street.

4. Shawn Dooley, 805 Nevada, understood that Nevada would be a through street, but with green space and the wildlife corridor preserved. Briarwood residents are concerned with the clearing from recent developments (such as Mariner Heights). They believe this to be "bad planning and development" and ask that City staff enforce the regulations to the letter of the law with monitoring of the development. He does state a concern for the record, that residents of Nevada Street and Briarwood were told at neighborhood meetings that the connection from Lakeway through Nevada to 44th will not connect with the Samish/7-5 overpass at Elwood.

5. Cindy Pheger, 804 Salmon Berry Lane, stated that when she went to the Planning Department she was not shown a platted map, but was shown a large section map and was told it would be difficult for the development to proceed. She is not opposed to development, but she bought her property with the understanding that it would remain quiet so that she could enjoy the wildlife. There are other alternatives to the through street of Nevada such as routing half of the Hawley development traffic south on Nevada to Consolidation and the other half through Lakeway.

6. Joyce Freshwater, 1058 Nevada, talked to the Planning Dept. before she bought her property at Nevada and was told that at that time there were no plans to make Nevada a through street. She presented a petition of 23 signatures of Nevada Street residents who are opposed to Nevada becoming a through street. She expressed frustration that the development and traffic access routes seem to be not a proposal, but a done deal.

7. Barry Windling, 1061 Nevada, spoke in opposition to the connection of Nevada Street and asked that future speed studies be performed. The many different zoning uses surrounding the area will cause great traffic increases.

A discussion then ensued between Councilmembers and staff regarding traffic patterns and access routes of the current and future developments in that area. Councilmember Knutson asked when the decision was made to make Nevada a through street. Jack Garner, Public Works responded that the decision was made when the Briarwood development was approved, in approximately late-1988.

8. Nancy Wopper, 821 Nevada, expressed concerns over the traffic patterns and stated that people are going to be zig-zagging all over to get to Lakeway.

Chris Spens, Planning Department, reiterated that there would be no connections with the Yew/Samish connector and urged Council to consider the possible aspects of road access in that when roads are accessible and open, it relieves traffic pressure and offers more options to residents. This naturally slows the traffic because more options are available to commuters. A through road gives traffic alternatives regardless of destination and for fire and police access it also offers more options. In response to wetlands, the project started out with 13.2 acres of wetlands. They will need to fill slightly less than an acre, and the City has maintained every square foot of wetland acreage either in the form of absolute wetlands or newly gained uplands upslope of this large system. The shape of the system is designed to minimize tree clearing on the property to link up wet meadow, scrub shrub, and forested wetlands with their necessary counterpart, forested uplands. The parcel was 46 acres and the park dedication is approximately 1/3 of the property plus rights of way to be dedicated, so the public benefit of this project is great. The development is proposed on a downside slope of the wetland, which is good because the disturbances would drain away from the wetland. The wetland configuration is solid with a net acreage of what was onsite plus the required 50-foot buffer which has been averaged and reallocated to gain a greater, more harmonious system.

Councilmember Knutson emphasized that the traffic situation is not going to go away and that he personally sold a home to get away from traffic which has now edged to his new home. There are adjustments that need to be made on all sides and that this is a city-wide problem.

9. Cindy Pheger, 804 Salmon Berry Lane, asked if all the barriers in town could be taken down tomorrow so that everyone could adjust appropriately. She states that if she has to adjust, then everyone else should also.

10. Ron Ispron, clarified that the Comprehensive Plan during the Briarwood Subdivision approval process indicated that the area south of existing Nevada should exit south. That was because the Byron Consolidation Parkway was under consideration, with Byron going over the freeway (near Denny's) and Consolidation being the main thoroughfare so that traffic in this area would exit to the major thoroughfare. In 1988, it was obvious that Consolidation had moved south and was now the San Juan Boulevard alignment so Nevada Street became the required street to go through. The Hawley's dedicated that right-of-way to allow the

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Briarwood Subdivision to occur. The owners stating that they did not know of Nevada being made a through street, could have looked at the drawing showing the alignment as it was one of the exhibits for Briarwood which showed Nevada to be a through street.

11. Lloyd Austin, 1838 Lakeside, has adjoining property to the development for sale and states that for any questions about wetlands, talk to him about it as he remembers he used to row his boat where Lakeway Estates is now. It has been filled in, and he does not see any bad results in Bellingham because of it.

With no further comments forthcoming, the Public Hearing was closed.

AYERS MOVED/HALL SECONDED approval of the preliminary plat subject to the Technical Review Committee and Planning Commission conditions and requirements. Staff is directed to prepare a resolution for review in committee. MOTION CARRIED 7-0.

#### AB11303 2. UTILITY SERVICE ZONE #219

CB 11956 AN ORDINANCE RELATING TO UTILITY SERVICE EXTENSION, PURSUANT TO MUNICIPAL CODE CHAPTER 15.36 AND PROVIDING FOR THE ANNEXATION OF AN AREA LOCATED EAST OF DEEMER ROAD AND SOUTH OF E. BAKERVIEW ROAD, TO THE CITY'S SEWER SERVICE ZONE AS EXTENSION NO. 219, PURSUANT TO CERTAIN TERMS AND CONDITIONS MORE PARTICULARLY DESCRIBED HEREIN.

Geoff Smythe, Public Works, made the staff presentation. There are 29.4 acres involved in the application with 7 pieces of land desiring to come into the City system. The development is adjacent to city limits and is contiguous to other areas with utility service zones and is within the urban service boundary. There are no proposed developments for the land involved, only existing structures and the City has imposed several stipulations which are included in the ordinance language. The resident applicants have indicated concerns over some of the stipulations.

The public hearing was opened.

1. Douglas Smith, 585 E. Bakerview, an applicant, stated that he does not want to be responsible for future LID's to improve the streets due to increased traffic caused by the retail development. The City has planned to upgrade the Deemer and Bakerview Roads and this cost would be too great for the sewer service zone applicants to bear. He does not think it is fair for the City to make the neighbors compensate for the lack of road investment on the part of the County, or for an immense traffic situation caused by the retail development. When he discussed this with the Planning Commission, they did not respond and he appeals to Council to give the neighbors a break.

2. Larry Clark, 945 E. Bakerview, the owner of Bakerview Nursery, also stated his opposition to the stipulation for future LID commitment to improve the streets.

A discussion ensued between the applicants and Councilmembers regarding the stipulations of the ordinance and the implication of future LID assessments. Jack Garner, Public Works, responded that the stipulations are applied because the property is outside city limits and are not under City control for subdivision, building permits, rezoning, etc. The stipulations are applied as if the property were in the city to provide some City control over land use, subdivision, permit, transportation impact fees, drainage controls, etc. If a short plat or subdivision were applied for in the City, the adjacent roads must be improved. If the subject land parcels were subdivided, these stipulations insure the improvements. It is difficult to impose an LID to an area outside the City limits, so they use the terminology "agreement". If the improvements are approved in the future, it would come before the Council to decide the method and degree of assessment and participation.

3. Hank Weeb, 629 E. Bakerview, has owned his 5 acre property since 1983 and supports the utility service zone. He stated that when future property development occurs, it would be right to pay the proper fees and costs, but he would want clear instructions at the time. He asks that Council act on this service zone extension.

4. Lloyd Austin, 1838 Lakeside, reiterates his theory of assessing LID's city-wide rather than to individual neighborhoods as the city as a whole uses all streets. He does not feel that this idea should extend to neighborhoods clear to the Canadian border, however. He also asks how much capacity our current sewer is set up for.

Jack Garner responded that the City has a 20 year growth cycle for sewer and 50 year cycle for water.

With no further comments forthcoming, the public hearing was closed.

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KNUTSON MOVED/GISCHER SECONDED the approval of the service zone extension. MOTION CARRIED. 7-0.

A five-minute break was taken at this point in the meeting.

#### REPORTS OF COMMITTEES

#### REPORTS OF COMMITTEES:

##### FINANCE AND PERSONNEL

MEMBERS: DON GISCHER, CHAIR; BOB HALL; PAT ROWE

Monday, Apr 25, 1994; 1:00 PM - 1:20 PM, Library Lecture Room, 210 Central

#### **AB11304 1. BID #32-94: LOADER/BACKHOE**

On April 7, 1994, bids were opened to purchase two new loader/backhoes for the Sewer and Water Department. Three bids were evaluated and Committee recommends the low bid from Western Power & Equipment Co. of Everett.

This bid was approved as part of the consent agenda.

#### **AB11305 2. Bid #33-94: FIRE STATION #5 REMODEL**

This project is funded from the Real Estate Excise Tax (REET) fund. Five bids were received and evaluated. Committee recommends awarding the bid to Ebenal General, Inc.

This bid was approved as part of the consent agenda.

#### **AB11306 3. Bid #34-94: ENGINEERING OFFICE PANELS**

Bids were opened on April 14, 1994 for wood office panels for the Public Works Engineering Division office. The Committee recommended awarding the bid to Regal Office Supply of Lynden, Washington.

This bid was approved as part of the consent agenda.

#### **AB11307 4. RECREATION PROGRAM FUNDING APPROPRIATIONS FOR SPECIAL POPULATION PROGRAM AND ARCO JESSE OWENS GAMES**

CB 11957 AN ORDINANCE RELATING TO THE 1994 BUDGET AND APPROPRIATING \$15,000.00 IN ADDITIONAL FUNDS IN THE GENERAL FUND FOR THE PURPOSE OF PROVIDING FOR A \$5,000.00 GRANT FOR THE DEVELOPMENTAL DISABILITY PROGRAM AND \$10,000 FOR THE ARCO JESSE OWENS GAMES, FROM UNANTICIPATED REVENUE.

This ordinance is a "pass-through" ordinance with Arco providing \$10,000 for the Jesse Owens Games and a State grant providing \$5,000 for programs for developmental disability programs.

GISCHER MOVED/BJORNSON SECONDED that Council Bill 11957 be read a first time. MOTION CARRIED. Upon motion, said bill was read a second time. MOTION CARRIED 7-0.

#### PLANNING AND COMMUNITY DEVELOPMENT

MEMBERS: PAT ROWE, CHAIR; LOUISE BJORNSON; BRUCE AYERS; DON GISCHER

Monday, Apr 25, 1994; 1:20 PM - 1:45 PM, Library Lecture Room, 210 Central

#### **AB11308 1. CONSIDERATION OF FINAL PLAT APPROVAL FOR DIVISIONS 1 AND 2 OF THE MT. BAKER FOREST RESIDENTIAL SUBDIVISION**

RES #16-94 A RESOLUTION GRANTING FINAL PLAT APPROVAL TO MT. BAKER FOREST RESIDENTIAL DIVISION 1 (WYCLIFFE PARK) AND DIVISION 2 (TANGLEWOOD). WYCLIFFE PARK, DIVISION 1, CONTAINS 51 SINGLE FAMILY CLUSTER LOTS. TANGLEWOOD, DIVISION 2, CONTAINS 23 SINGLE FAMILY CLUSTER LOTS. MT BAKER FOREST RESIDENTIAL IS GENERALLY LOCATED NORTH OF BARKLEY BOULEVARD AND WEST OF THE TWEED

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**TWENTY AND BRENT WOOD SUBDIVISIONS.**

Councilmember Rowe reported that this final plat approval was requested by the applicant prior to completion subject to bonding. Committee recommended 3-1 to approve the subdivision. The bonding consists of 150%. Councilmember Gischer expressed concerns over granting final approval prior to completion due to the risk to the City. Other councilmembers also mentioned concern over the approval prior to completion and it was suggested to add this as a topic for discussion at the Committee of the Whole.

ROWE MOVED/AYERS SECONDED approval of final plat approval. MOTION CARRIED. 5-2 (Gischer, Hall opposed).

**COMMITTEE OF THE WHOLE**

**ALL COUNCIL MEMBERS; ARNE HANNA, CHAIR**

Monday, Apr 25, 1994; 1:45 PM - 4:30 PM, Library Lecture Room, 210 Central

**AB11309 1. PRESENTATION: URBAN RESIDENTIAL VACANT LAND SUPPLY**

Councilmember Hanna reported that a presentation was given at the committee meeting by Roger Almskaar, Bill Henshaw, Daryl McClelland, Joe Burton, and Bill Geyer who discussed the land supply. This was informational only, no action was required. The staff will be forthcoming with a presentation on land management.

**AB11310 2. CONSIDERATION OF PARKING PLAN AND DISTRICT FOR FAIRHAVEN**

Councilmember Hanna reported that council made recommendations regarding the plan and that staff will be bringing a resolution forth at the next meeting for approval regarding the parking plan in Fairhaven. Councilmember Ayers reported that they voted to approve the recommendations of the Planning Commission.

**AB11311 3. CONSIDERATION OF PROPOSALS PREVIOUSLY PRESENTED AT PUBLIC HEARINGS HELD MARCH 28TH AND APRIL 18TH ON POSSIBLE SURPLUS ACTION AND DISPOSITION OF A NUMBER OF CITY-OWNED PROPERTIES INVOLVED IN A COMPLEX RESPONSE TO THE REQUEST FOR PROPOSALS FOR REDEVELOPMENT OF THE WASHINGTON GROCERY BUILDING**

Councilmember Hanna reported that New Whatcom Improvement Company removed the 40 acre Lake Padden parcel from their proposal. In addition, Council talked with Catholic Community Services and Critical Ventures regarding their respective proposals.

Councilmember Ayers reported that the committee action was to send all the proposals to the Real Estate Appraisal Committee for financial considerations (return on investment) and suitable downtown use and to provide recommendations back to Council within 2 weeks.

BJORNSON MOVED/KNUTSON SECONDED the removal of the 40-acre Lake Padden parcel from the New Whatcom Improvement Company proposal. MOTION CARRIED. 7-0.

Councilmember Hanna recognized the following citizen to speak:

Reg Williams, 2636 Franklin, questioned why issues are always referred to staff for recommendations when staff does not always have the complete background and information. He suggests that if staff is to make recommendations, that they be given access to persons involved in the proposals. Further, the city charter specifically prohibits the sale of the Lake Padden parcel, yet the idea was entertained by staff as a part of the New Whatcom proposal.

Steve Brisbane, New Whatcom Improvement Co., addressed the issue regarding the proposal process and stated that he did come up with the exchange idea and that the charter stipulates how properties are to be disposed and sold. There is a special provision for disposition to take in consideration deals which are unique or can't be presented for sealed bids. In fact, you can not put out an RFP requesting an exchange process for property that is owned by someone else.

Bruce Disend clarified that city staff has not entered into any negotiations with any parties who have made proposals but there have been discussions with all the proponents to get clarification on the terms and conditions of their proposals. Councilmember Ayers reiterated that point also and stated that they have been working on the development of each of the proposals for preparation to Council.

Mr. Williams stated that he was more interested in an opinion from the City Attorney regarding an interpretation of the charter. He also congratulated Mr. Brisbane for coming up with an offer that included an arts center. His main concern was for the Lake Padden

Council Minutes for April 25, 1994 City of Bellingham, WA

parcel in that he did not feel it was in the best interest of the City to dispose of that property.

**CONSENT AGENDA**

All matters listed under CONSENT AGENDA are considered to be routine to the City Council and will be enacted by one motion. There will be no separate discussion of these items. If discussion is desired, that item will be removed from the Consent Agenda and considered separately.

- AB11304 1. BID #32-94: LOADER/BACKHOE
- AB11305 2. BID #33-94: FIRE STATION #5 REMODEL
- AB11306 3. BID #34-94: ENGINEERING OFFICE PANELS

GISCHER MOVED/BJORNSON SECONDED the approval of all items listed on the consent agenda. MOTION CARRIED 7-0.

**MAYOR'S REPORT**

**CONSENT AGENDA**

**FINAL CONSIDERATION OF ORDINANCES**

**OTHER BUSINESS**

**ADJOURNMENT**

There being no further business, the meeting was thereupon adjourned at approximately 9:55 PM. ARNE HANNA, COUNCIL PRESIDENT

**ATTEST:** Deputy City Clerk

**APPROVED:**

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EXHIBIT D

RESOLUTION NO. 19-94

RESOLUTION ACCEPTING PRELIMINARY PLAT OF HAWLEY'S REPLAT

WHEREAS, pursuant to Chapter 18.16 of the Bellingham City Code, Cypress Partners (Excell Development and Irv Hawley), proponents for the proposed subdivision, comprising 46.71 gross acres, located along the extension of Nevada Street, between Edwards Street and Consolidation Avenue, within the City of Bellingham, have made application for approval of a preliminary plat containing 123 units including 64 single family lots, 1 duplex lot, 1 triplex lot, 1 4-plex lot, and a 50 unit multi-family tract, and

WHEREAS, pursuant to Section 18.16.040 of the Bellingham City Code, the applicant met with the City's Technical Review Committee, and thereafter said Committee formulated certain conditions for consideration by the Planning Commission and City Council; and

WHEREAS, the developer met with the neighborhood to discuss the proposal; and

WHEREAS, the Bellingham Planning and Development Commission held a public hearing concerning the matter on March 17, 1994; and

WHEREAS, the Bellingham Planning and Development Commission recommended approval of the application subject to the conditions set forth in the Technical Review Committee recommendation, relocation of four lots, and dedication of open space; and

WHEREAS, said Preliminary Plat has been duly examined as a cluster subdivision and planned residential site plan; and

WHEREAS, an environmental checklist has been prepared and considered by the Responsible Official and a Determination of Nonsignificance has been issued; and

WHEREAS, the Bellingham City Council held a public hearing on April 25, 1994, concerning the above Preliminary Plat, NOW THEREFORE,

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City of Bellingham  
CITY ATTORNEY  
210 Lottie Street  
Bellingham, Washington  
98225  
Telephone (206) 289

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF BELLINGHAM:

That the Preliminary Plat has been presented for acceptance, approval, and filing, as shown in Exhibit "A", and is hereby accepted, approved, and ordered filed, subject to the restrictions listed on Exhibit "B" attached hereto and made a part hereof by reference as though set forth fully herein. The property, in the city limits of the City of Bellingham, included in this plat is described in Exhibit "C".

PASSED by the council this 10th day of May, 1994.

*Aine Hanna*  
Council President

APPROVED by me this 24th day of May, 1994.

*Jim Douglas*  
Mayor

ATTEST: *Lynn Carpenter*  
Finance Director

APPROVED AS TO FORM:

*[Signature]*  
Office of the City Attorney

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City of Bellingham  
CITY ATTORNEY  
210 Lottie St. 290  
Bellingham, WA 98225  
Telephone (206) 676-6903





## EXHIBIT "B"

## Hawley's Replat Conditions:

General:

1. The applicant or its successor in interest shall provide mitigation to the Bellingham School District at the building permit stage.
2. Bellingham Municipal Code Applicable Land Use Development Regulations:

Detached single family lots shall be subject to Standard Development Regulations found in Chapter 20.30.040. Attached single family structures shall be subject to regulations found in Chapter 20.32.045 C-J.

The duplex lot, triplex lot, and four-plex lot shall be subject to Standard Multi-Family Regulations found in Chapter 20.32.000.

The 50 unit multi-family tract shall be subject to Planned Development Regulations found in Chapter 20.38.050 B.

3. Two street trees shall be installed for each single family and duplex lot, one tree per each 50 feet of street frontage for the triplex and four-plex lots (however, each lot shall not have less than 2 trees). Street tree requirements for the 50 unit multi-family tract shall be those specified in Bellingham Municipal Code 20.12.030 for similar uses. Street trees shall be installed according to a plan approved by the City.
4. Internal cul-de-sacs shall be named by the Planning Commission prior to final plat consideration.

Circulation Access:

1. The existing Nevada Street right-of-way shall be vacated and a new 60 foot wide right of way shall be dedicated connecting Nevada Street between Edwards Street and Consolidation Avenue.
2. Within the plat, Nevada Street shall be constructed to 28' with concrete curbs, gutters, 5' foot wide sidewalks, street lighting, and enclosed storm drainage on both sides.
3. Nevada Street shall be improved to a minimum standard north of the plat to Lakeway Drive in any area where it is substandard.

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City of Bellingham  
CITY ATTORNEY  
210 Lottie Street  
Bellingham, Washington  
98225  
Telephone (206) 676-6903

4. All cul-de-sacs within the plat shall be constructed to 24' with rolled curb, 6 inch thick concrete sidewalk, street lighting, and enclosed storm drainage on both sides. Cul-de-sac rights-of-way shall be a minimum of 50 feet.
5. Consolidation Avenue shall be improved to 3/4 City standards of a 28' street adjacent to Phase 1.

**Signage and Pavement Markings:**

1. All street signs and pavement markings shall comply with Public Works Department standards.

**Lot Access:**

1. All corner lots shall access from the cul-de-sac street.
2. All Nevada Street driveways shall meet minimum stopping sight distance standards at 25 miles an hour.

**Water Quality Treatment:**

1. All street impervious surfaces are subject to water quality treatment prior to discharge to the existing public transport system.

**Transportation Impact Fees:**

1. A transportation impact fee for off-site impacts shall be collected at the time of building permit issuance. The fee shall include a cost component for the Samish Overpass project.

**Surface Water:**

- 1: A stormwater management plan shall be submitted and approved by the Public Works Department and Planning Division. The plan shall be in accordance with the State Dept. of Ecology Stormwater Technical Manual and the City of Bellingham Watershed Master Plan. The following elements must be addressed:
  - a) A permanent water quality facility shall be provided.
  - b) A stormwater detention facility meeting DOE criteria shall be provided. Alternative measures as outlined in the City of Bellingham Watershed master Plan may be substituted. Any alternative measures must be designed and implemented prior to final plat approval.

- c) An erosion and sedimentation control plan shall be submitted and approved prior to ground disturbance.
- d) There shall be provisions for positive lot drainage for all lots within the subdivision.

**Sanitary Sewer:**

1. All lots shall abut upon a publicly maintained sanitary sewer main capable of providing gravity service and conforming with Public Works Department improvement standards. All sewer mains, along with their size and location, shall be reviewed and approved by the Public Works Department. As required by the Public Works Department, sewer mains shall be extended where necessary to allow for future development around and adjacent to this plat.

**Water:**

1. All lots shall abut upon a publicly maintained water main. Water mains shall be extended from the existing mains in the Briarwood Plat to the existing main on Nevada Street. All water mains shall be sized and installed in accordance with Public Works Department standards and shall be approved by the Fire Marshall.

**Fire:**

1. The water supply for fire protection (fire flow) shall be a minimum of 750 gallons per minute at 20 pounds per square inch residual pressure. Fire hydrants shall be approved by the Fire Department, and shall be located no greater than 500 foot intervals.
2. Street names shall be selected to be consistent with the City's overall street naming plan and shall not conflict with names or homonyms already in Whatcom County.

**Wetlands:**

- 1: Wetland mitigation shall be addressed in a Wetland Permit approved by the Planning Division for the site.

**Landscaping/Vegetation:**

1. A clearing plan shall be submitted to the Department of Planning and Community Development for approval. Mature stands of trees shall be preserved and integrated with the site as approved by the City. Clearing shall not be permitted until after construction plans have been approved by the City, a bond submitted for construction,

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City of Bellingham  
CITY ATTORNEY  
210 Lottie Street  
Bellingham, Washington  
98225  
Telephone (206) 676-6903

and the erosion control plan approved and installed. Selective clearing of brush and trees shall not unnecessarily disturb ground cover and shall be limited to rights-of-way and utility easements until final plat approval, except as necessary to accommodate said construction and only as approved by the Public Works Department and so indicated on the approved construction plans. Additional clearing on any lot shall not occur until a building permit has been issued or a clearing management plan has been approved by the City.

**Parks:**

1. Approximately 15 acres of the site, as shown on Exhibit A, shall be dedicated to the City of Bellingham for open space purposes. This dedication will fulfil the applicant's open space/park dedication requirement for the entire Hawley's site.
2. The final plat shall provide public access from each cul-de-sac and along Nevada Street to the public open space area. Public access points to the open space area shall be provided in locations approved by the Planning Division and Parks Department.

**Future Phases:**

1. Additional administrative site plan review shall be required prior to development on the 50 unit multi-family tract.
2. Additional public review will be required prior to development of Area B as shown on the attached site plan.
3. Phasing of single family lots will be allowed consistent with a plan approved by the City. Preliminary plat shall be extended each time a final plat is recorded with the Whatcom County Auditor's Office.

EXHIBIT C - LEGAL DESCRIPTION

NO. 41125

PARCEL A:

THE SOUTH HALF OF LOT 8, ALL OF LOTS 9 TO 24, INCLUSIVE, AND THE SOUTH HALF OF LOT 25 IN BLOCK 25; LOTS 7 TO 32, INCLUSIVE, IN BLOCK 26; ALL OF BLOCKS 33 AND 34; THE VACATED EAST 10 FEET OF MOORE STREET ABUTTING LOTS 1 TO 6 INCLUSIVE IN BLOCK 34 AND ABUTTING THE SOUTH HALF OF LOT 8 AND ALL OF LOTS 9 TO 16, INCLUSIVE IN BLOCK 25 AND ALL OF VACATED BLOCKS 27, 28, 31 AND 32, INCLUDING VACATED STREETS AND ALLEYS, ALL IN "CEDER ADDITION TO NEW WHATCOM," NOW A PART OF THE CONSOLIDATED CITY OF BELLINGHAM, WHATCOM COUNTY, WASHINGTON, AS PER THE MAP THEREOF, RECORDED IN VOLUME 4 OF PLATS, PAGE 20, IN THE AUDITOR'S OFFICE OF SAID COUNTY AND STATE.

LESS THE EAST 40 FEET OF BLOCKS 28 AND 31 AS DESCRIBED IN AUDITOR'S FILE NO. 1010691.

SITUATE IN COUNTY OF WHATCOM, STATE OF WASHINGTON

PARCEL B:

A TRACT OF LAND SITUATED IN GOVERNMENT LOT 2, SECTION 32, TOWNSHIP 38 NORTH, RANGE 3 EAST OF W.M., DESCRIBED AS FOLLOWS:

ALL OF THE NORTH FIVE ACRES LYING WEST OF THE CENTRAL LINE OF PACIFIC STREET (EXTENDED) EXCEPT 30 FEET ALONG THE EAST SIDE WHICH IS LEFT FOR A STREET.

SITUATE IN COUNTY OF WHATCOM, STATE OF WASHINGTON

PARCEL C:

A TRACT OF LAND IN GOVERNMENT LOT 1, SECTION 32, TOWNSHIP 38 NORTH, RANGE 3 EAST OF W.M., DESCRIBED AS FOLLOWS:

COMMENCING AT A STAKE 403.84 FEET EAST OF THE NORTHWEST CORNER OF SAID LOT 1; THENCE RUNNING EAST 913.76 FEET TO THE NORTHEAST CORNER OF SAID LOT 1; THENCE SOUTH 433.04 FEET; THENCE WEST 543.50 FEET; THENCE NORTH 120 FEET; THENCE WEST 370.26 FEET; THENCE NORTH 313.04 FEET TO THE POINT OF BEGINNING; CONTAINING 8.06 ACRES MORE OR LESS.

SITUATE IN COUNTY OF WHATCOM, STATE OF WASHINGTON

(CONTINUED)

EXHIBIT C - LEGAL DESCRIPTION  
(CONTINUED)

NO. 41125

PARCEL D:

GOVERNMENT LOT 2 IN SECTION 32, TOWNSHIP 38 NORTH, RANGE 3 EAST OF W.M., EXCEPTING THEREFROM THE TRACT CONVEYED TO WILLETTE WORNOTH, BY DEED RECORDED UNDER AUDITOR'S FILE NO. 211054, DESCRIBED AS FOLLOWS:

THE NORTH 5 ACRES WEST OF THE CENTERLINE OF PACIFIC STREET IN SAID GOVERNMENT LOT 2, EXCEPTING FROM SAID 5 ACRES THE EAST 30 FEET, WHICH IS TO BE LEFT FOR STREET.

EXCEPT, ALSO THAT PORTION LYING WITHIN THE "PLAT OF BROADVIEW ESTATES, DIVISION NO. 1," AS PER THE MAP THEREOF, RECORDED IN VOLUME 9 OF PLATS, PAGE 59, IN THE AUDITOR'S OFFICE OF SAID COUNTY AND STATE.

SITUATE IN COUNTY OF WHATCOM, STATE OF WASHINGTON

-37-

CONSERVATION EASEMENT

GRANTORS, IRVING AND JOAN HAWLEY, do hereby covenant, grant and convey to and for the benefit of the CITY OF BELLINGHAM, GRANTEE, in perpetuity, a conservation easement on portions of their property legally described in Exhibit A, Township 38 North, Range 3 East, West one-half of Section 32, Whatcom County Washington, as follows:

- 1. In accordance with the provisions of Plat Resolution No. 19-94 which is associated with the "HAWLEY REPLAT" this Conservation Easement and subsequent dedications in fee, shall fulfill all conditions pertaining to Parks obligation, Wetland preservation and Open Space allocations.
- 2. This easement area and dedication in fee shall occasion a reduction in over unit density, as provided for by zoning of 100 dwelling units. The allowable density as computed by utilizing gross acreage shall therefore be reduced by 100 units by this grant and dedication.
- 3. This tract, which is now a natural part of the overall site drainage will also be incorporated into the projects mitigation and drainage controls in order to perpetuate the natural hydrologic functions.

These covenants and easements shall run with the land and be binding on successors and assigns.

Executed this 27 day of DECEMBER, 1994.

GRANTORS

*Irving H. Hawley, Jr.*  
Irving Hawley

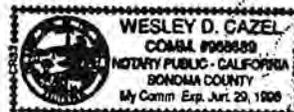
*Joan Hawley*  
Joan Hawley

WHATCOM COUNTY  
BELLINGHAM, WA  
12/30/94 09:00 AM  
REQUEST OF: RONALD JE  
Shirley Forslof, AUDITOR  
BY: PT, DEPUTY  
\$8.00 EASE

STATE OF CALIFORNIA)  
ss  
COUNTY OF SONOMA

I certify that I know or have satisfactory evidence that Irving Hawley and Joan Hawley are the persons who appeared before me, and said persons acknowledged that they signed this instrument and acknowledged it to be their free and voluntary act for the uses and purposes mentioned in the instrument.

DATED DECEMBER 27, 1994  
*Wesley D. Cazal*  
NOTARY PUBLIC IN AND FOR THE STATE  
OF CALIFORNIA, MY COMMISSION  
EXPIRES 6/29/96



/pb  
exx11223



Vol: 425 Page: 535  
File No: 941230008

## EXHIBIT A

DECEMBER 1, 1994

CLIENT: EXXEL DEVELOPMENT (HAWLEY PROPERTY)LEGAL DESCRIPTIONOPEN SPACE TRACT DEDICATION

THAT PORTION OF THE WEST ONE-HALF OF SECTION 32, TOWNSHIP 38 NORTH, RANGE 3 EAST OF W.M. MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT A CONCRETE MONUMENT MARKING THE INTERSECTION OF NEVADA STREET AND EDWARDS STREET WITHIN THE PLAT OF "CEDAR ADDITION TO NEW WHATCOM" NOW A PART OF THE CONSOLIDATED CITY OF BELLINGHAM AND RECORDED IN VOLUME 6 OF PLATS, PAGE 3B, RECORDS OF THE WHATCOM COUNTY AUDITOR; THENCE SOUTH 1° 53' 41" WEST ALONG THE CENTERLINE OF NEVADA STREET, 339.87 FEET; THENCE AT RIGHT ANGLES TO SAID CENTERLINE SOUTH 88° 06' 19" EAST, 30.00 FEET TO THE TRUE POINT OF BEGINNING; THENCE CONTINUING SOUTH 88° 06' 19" EAST, 10.00 FEET; THENCE NORTH 1° 53' 41" EAST, 59.93 FEET; THENCE SOUTH 88° 03' 06" EAST, 128.00 FEET; THENCE NORTH 1° 53' 41" EAST, 239.90 FEET TO A POINT ON THE SOUTH LINE OF EDWARDS STREET; THENCE SOUTH 88° 03' 06" EAST, ALONG SAID SOUTH LINE 112.00 FEET; THENCE NORTH 1° 53' 41" EAST, 40.00 FEET; THENCE SOUTH 88° 03' 06" EAST, 296.76 FEET; THENCE SOUTH 1° 55' 01" WEST, 323.09 FEET; THENCE SOUTH 59° 45' 04" EAST, 162.23 FEET; THENCE SOUTH 88° 03' 06" EAST, 200.00 FEET TO A POINT ON THE WEST LINE OF PUGET STREET; THENCE SOUTH 1° 55' 01" WEST ALONG SAID WEST LINE 599.78 FEET; THENCE SOUTH 88° 39' 56" EAST, 20.00 FEET; THENCE SOUTH 1° 33' 12" WEST, 88.49 FEET; THENCE SOUTH 78° 09' 03" WEST, 29.31 FEET; THENCE NORTH 62° 33' 50" WEST, 94.16 FEET; THENCE SOUTH 86° 12' 35" WEST, 39.88 FEET; THENCE NORTH 67° 59' 28" WEST, 87.62 FEET; THENCE SOUTH 54° 24' 26" WEST, 58.75 FEET; THENCE SOUTH 16° 32' 48" WEST, 34.15 FEET; THENCE NORTH 70° 56' 02" WEST, 58.09 FEET; THENCE SOUTH 63° 51' 48" WEST, 82.09 FEET; THENCE NORTH 5° 31' 21" WEST, 158.72 FEET; THENCE NORTH 56° 29' 06" WEST, 366.08 FEET; THENCE SOUTH 85° 58' 57" WEST, 125.84 FEET TO A POINT ON THE ARC OF A CURVE, THE CENTER OF WHICH BEARS NORTH 74° 01' 18" WEST HAVING A RADIUS OF 1540.00 FEET; THENCE NORTHERLY ALONG THE ARC OF SAID CURVE TO THE LEFT THROUGH A CENTRAL ANGLE OF 9° 12' 22" AN ARC DISTANCE OF 247.44 FEET; THENCE NORTH 83° 13' 40" WEST, RADIAL TO SAID CURVE, 80.00 FEET TO A POINT ON THE EASTERLY LINE OF NEVADA STREET; THENCE NORTHERLY ALONG THE ARC OF A CURVE TO THE LEFT HAVING A RADIUS OF 1460.00 FEET THROUGH A CENTRAL ANGLE OF 4° 52' 39" AN ARC DISTANCE OF 124.29 FEET TO A POINT OF TANGENCY; THENCE NORTH 1° 53' 41" EAST ALONG SAID TANGENT 68.36 FEET TO THE POINT OF BEGINNING.

SITUATE WITHIN THE CITY LIMITS OF BELLINGHAM, WHATCOM COUNTY, WASHINGTON.

(CONTAINING 15.0 ACRES)

/pb  
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Vol: 425 Page: 536  
File No: 941230008



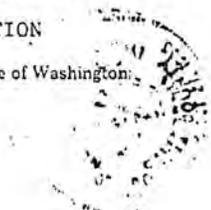
**First American Title Insurance Company**

THIS SPACE PROVIDED FOR RECORDER'S USE.

Filed for Record at Request of  
Name City of Bellingham  
c/o City Attorney  
Address 210 Lottie Street  
City and State Bellingham, WA. 98225

**Statutory Warranty Deed**

THE GRANTORS IRVING H. HAWLEY, JR., AND JOAN F. HAWLEY, HUSBAND  
AND WIFE  
for and in consideration of One Dollar (\$1.00) and Other Valuable Consideration  
in hand paid, conveys and warrants to CITY OF BELLINGHAM, A MUNICIPAL CORPORATION  
the following described real estate, situated in the County of WHATCOM, State of Washington:  
SEE ATTACHED



WHATCOM COUNTY  
BELLINGHAM, WA  
12/30/94 09:02 AM  
REQUEST OF: RONALD JE  
Shirley Forslof, AUDITOR  
BY: LR: DEPUTY  
\$9.00 DEED  
Vol: 425 Page: 537  
File No: 941230009

Dated Dec 7, 1994

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
*Irving H. Hawley, Jr.*  
\_\_\_\_\_  
\_\_\_\_\_

STATE OF WASHINGTON } ss.  
COUNTY OF \_\_\_\_\_

On this day personally appeared before me \_\_\_\_\_  
to me known to be the individual(s) described in and who executed the within and foregoing instrument, and acknowledged that \_\_\_\_\_ signed the same as \_\_\_\_\_ free and voluntary act and deed, for the uses and purposes therein mentioned.

GIVEN under my hand and official seal this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_\_  
Notary Public in and for the State of Washington, residing at \_\_\_\_\_

STATE OF WASHINGTON } ss.  
COUNTY OF \_\_\_\_\_

On this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_\_, before me, the undersigned, a Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared \_\_\_\_\_ and \_\_\_\_\_ to me known to be the \_\_\_\_\_ President and \_\_\_\_\_ Secretary, respectively, of \_\_\_\_\_ the corporation that executed the foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of said corporation, for the uses and purposes therein mentioned, and on oath stated that \_\_\_\_\_ authorized to execute the said instrument and that the seal affixed is the corporate seal of said corporation.  
Witness my hand and official seal hereto affixed the day and year first above written.

\_\_\_\_\_  
Notary Public in and for the State of Washington, residing at \_\_\_\_\_

DECEMBER 1, 1994

CLIENT: EXXEL DEVELOPMENT (HAWLEY PROPERTY)

LEGAL DESCRIPTION

OPEN SPACE TRACT DEDICATION

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SITUATE WITHIN THE CITY LIMITS OF BELLINGHAM, WHATCOM COUNTY, WASHINGTON.

(CONTAINING 15.0 ACRES)

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exxel201  
91039

Vol: 425 Page: 538  
File No: 941230009

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

No 5907

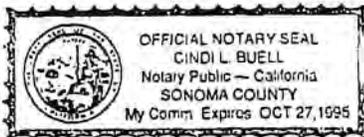
State of California

County of Sonoma

On 12/7/94 before me, Cindi L. Buell, Notary Public  
DATE NAME, TITLE OF OFFICER - E.G., 'JANE DOE, NOTARY PUBLIC'

personally appeared Irving H. Hawley, Jr. and Joan F. Hawley  
NAME(S) OF SIGNER(S)

personally known to me - OR -  proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) ~~is/are~~ subscribed to the within instrument and acknowledged to me that ~~he/she/they~~ executed the same in ~~his/her/their~~ authorized capacity(ies), and that by ~~his/her/their~~ signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.



WITNESS my hand and official seal.

Cindi L. Buell  
SIGNATURE OF NOTARY  
Cindi L. Buell, Notary Public

OPTIONAL

Though the data below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent reattachment of this form.

CAPACITY CLAIMED BY SIGNER

- INDIVIDUAL
- CORPORATE OFFICER
- \_\_\_\_\_ TITLE(S)
- PARTNER(S)  LIMITED  GENERAL
- ATTORNEY-IN-FACT
- TRUSTEE(S)
- GUARDIAN/CONSERVATOR
- OTHER: \_\_\_\_\_

DESCRIPTION OF ATTACHED DOCUMENT

\_\_\_\_\_ TITLE OR TYPE OF DOCUMENT

\_\_\_\_\_ NUMBER OF PAGES

DATE OF DOCUMENT  
Vol: 425 Page: 539  
File No: 941230009

SIGNER IS REPRESENTING:  
NAME OF PERSON(S) OR ENTITY(IES)

\_\_\_\_\_ SIGNER(S) OTHER THAN NAMED ABOVE

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RESOLUTION 2002 - 24

A RESOLUTION GRANTING FINAL PLAT APPROVAL FOR THE PRELIMINARY PLAT OF CEDAR RIDGE, DIVISION 2, CONSISTING OF 48 SINGLE FAMILY LOTS, 1 DUPLEX LOT, 1 TRIPLEX LOT, 1 FOURPLEX LOT, A 50-UNIT MULTIFAMILY LOT, AND A RESERVE TRACT LOCATED IN AREA 17 OF THE PUGET NEIGHBORHOOD AND GENERALLY LOCATED ALONG THE EXTENSION OF NEVADA STREET BETWEEN EDWARDS STREET AND CONSOLIDATION AVENUE.

WHEREAS, the City has received a request to finalize Division 2 of the Cedar Ridge, consisting of 48 single family lots, 1 duplex lot, 1 triplex lot, 1 fourplex lot, a 50-unit multifamily tract, and a reserve tract (site plan attached as Attachment 1); and

WHEREAS, said plat received City Council approval on May 10, 1994, by Resolution No. 19-94; and

WHEREAS, on December 30, 1994, the wetland/open space tract was dedicated to the City of Bellingham; and

WHEREAS, on May 7, 1996, Division 1, consisting of 7 single family lots, was recorded at the Whatcom County Auditor's Office (960507105); and

WHEREAS, on June 5, 1998 the Edwards Short, consisting of 9 single family lots, was recorded at the Whatcom County Auditor's Office; and

WHEREAS, on May 6, 2002, the City Council approved first and second reading of an ordinance for the vacation of the undeveloped portions of Nevada, Lopez, and alley rights of way associated with said plat; and

WHEREAS, the public improvement requirements associated with Division 2 have been installed or bonded for at time of approval; and,

City of Bellingham  
CITY ATTORNEY  
210 Lottie Street  
Bellingham, Washington 98225  
Telephone (360)676-6903

CedarRidgeDiv2.fnl

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WHEREAS, the Council has reviewed Division 2 of this plat and finds that the public use and interest will be served and that Division 2 of this plat meets the requirements of the City Subdivision Ordinance and other State or Local Ordinances pertaining thereto, and conforms to the preliminary plat design and the plat conditions as set out in Resolution No. 19-94 (Attachment 2),

NOW THEREFORE, BE IT RESOLVED BY THE BELLINGHAM CITY COUNCIL THAT:

Cedar Ridge, Division 2, consisting of 48 single-family lots, 1 duplex lot, 1 triplex lot, 1 fourplex lot, a 50-unit multifamily tract, and a reserve tract has been presented for acceptance, approval, and filing, and is hereby accepted, approved, and ordered filed, subject to the Preliminary Plat Resolution No. 19-96, attached hereto as Attachment 2, and made a part hereof by reference as though set forth fully herein. The property is in the City of Bellingham on property legally described as attached.

PASSED by the Council this 15TH day of JULY, 2002.

*Pauline Ryan*  
Council President

APPROVED by me this 22nd day of July, 2002.

*Mark Asanish*  
Mayor

ATTEST: *Therese Hob*  
Finance Director

APPROVED as to form:

*Dana David*  
Office of the City Attorney

City of Bellingham  
CITY ATTORNEY  
210 Lottie Street  
Bellingham, Washington 98225  
Telephone (360)876-6903

CedarRidgeDiv2.fn1

282

# ATTACHMENT 1



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RESOLUTION NO. 19-94**ATTACHMENT 2**

## RESOLUTION ACCEPTING PRELIMINARY PLAT OF HAWLEY'S REPLAT

WHEREAS, pursuant to Chapter 18.16 of the Bellingham City Code, Cypress Partners (Excell Development and Irv Hawley), proponents for the proposed subdivision, comprising 46.71 gross acres, located along the extension of Nevada Street, between Edwards Street and Consolidation Avenue, within the City of Bellingham, have made application for approval of a preliminary plat containing 123 units including 64 single family lots, 1 duplex lot, 1 triplex lot, 1 4-plex lot, and a 50 unit multi-family tract, and

WHEREAS, pursuant to Section 18.16.040 of the Bellingham City Code, the applicant met with the City's Technical Review Committee, and thereafter said Committee formulated certain conditions for consideration by the Planning Commission and City Council; and

WHEREAS, the developer met with the neighborhood to discuss the proposal; and

WHEREAS, the Bellingham Planning and Development Commission held a public hearing concerning the matter on March 17, 1994; and

WHEREAS, the Bellingham Planning and Development Commission recommended approval of the application subject to the conditions set forth in the Technical Review Committee recommendation, relocation of four lots, and dedication of open space; and

WHEREAS, said Preliminary Plat has been duly examined as a cluster subdivision and planned residential site plan; and

WHEREAS, an environmental checklist has been prepared and considered by the Responsible Official and a Determination of Nonsignificance has been issued; and

WHEREAS, the Bellingham City Council held a public hearing on April 25, 1994, concerning the above Preliminary Plat, NOW THEREFORE,

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City of Bellingham  
CITY ATTORNEY  
210 Lottie Street  
Bellingham, Washington  
98225  
Telephone (206) 289

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF BELLINGHAM:

That the Preliminary Plat has been presented for acceptance, approval, and filing, as shown in Exhibit "A", and is hereby accepted, approved, and ordered filed, subject to the restrictions listed on Exhibit "B" attached hereto and made a part hereof by reference as though set forth fully herein. The property, in the city limits of the City of Bellingham, included in this plat is described in Exhibit "C".

PASSED by the council this 10th day of May, 1994.

*Aime Horne*  
Council President

APPROVED by me this 24th day of May, 1994.

*Jim Douglas*  
Mayor

ATTEST: *Lynn Carpenter*  
Finance Director

APPROVED AS TO FORM:

*[Signature]*  
Office of the City Attorney

docs\rgn\hawley's

2

City of Bellingham  
CITY ATTORNEY  
210 Lottie St. **290**  
Bellingham,  
98225  
Telephone (206) 676-6903

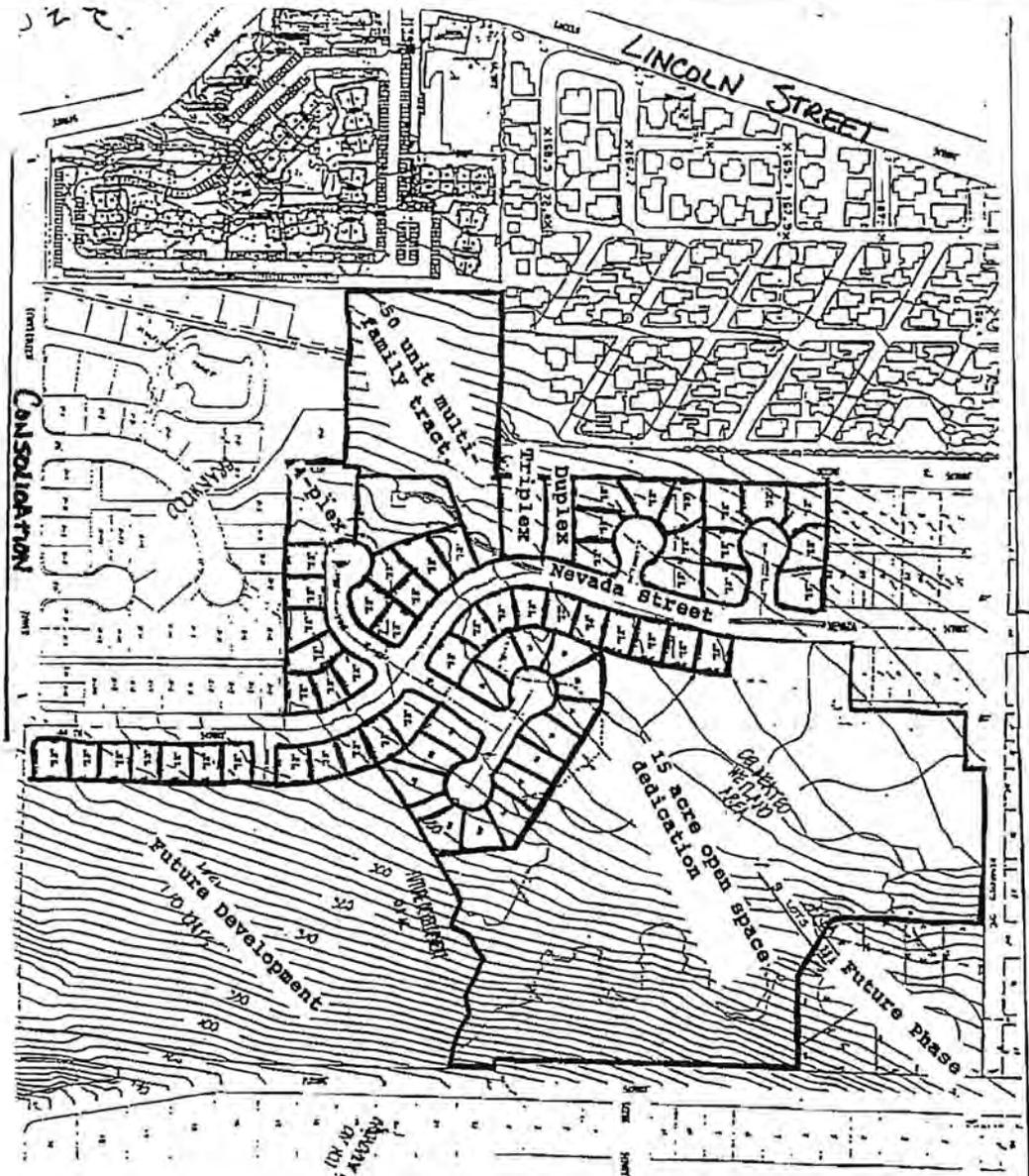


EXHIBIT A  
HAWLEY'S REPLAT PRELIMINARY PLAN  
Lakeway Drive



VICINITY MAP

GENERAL NOTES:

- PLAT AREA..... NW 1/4 - SW 1/4 - NE 1/4 - SW 1/4
- LOT SUMMARY.....
- LOT SIZE (total plat area)..... 100.11
- GROSS DENSITY..... 14 UNITS PER ACRE
- ALLOWABLE DENSITY..... 20 UNITS PER ACRE
- ZONING..... M-100
- SEWER DISPOSAL..... CITY OF ELIZABETH
- WATER SUPPLY..... CITY OF ELIZABETH
- DEVELOPER.....
- ENGINEER/SURVEYOR..... JOHN I. DYKALSKI, INC.



3A



**EXHIBIT "B"****Hawley's Replat Conditions:****General:**

1. The applicant or its successor in interest shall provide mitigation to the Bellingham School District at the building permit stage.
2. Bellingham Municipal Code Applicable Land Use Development Regulations:

Detached single family lots shall be subject to Standard Development Regulations found in Chapter 20.30.040. Attached single family structures shall be subject to regulations found in Chapter 20.32.045 C-J.

The duplex lot, triplex lot, and four-plex lot shall be subject to Standard Multi-Family Regulations found in Chapter 20.32.000.

The 50 unit multi-family tract shall be subject to Planned Development Regulations found in Chapter 20.38.050 B.

3. Two street trees shall be installed for each single family and duplex lot, one tree per each 50 feet of street frontage for the triplex and four-plex lots (however, each lot shall not have less than 2 trees). Street tree requirements for the 50 unit multi-family tract shall be those specified in Bellingham Municipal Code 20.12.030 for similar uses. Street trees shall be installed according to a plan approved by the City.
4. Internal cul-de-sacs shall be named by the Planning Commission prior to final plat consideration.

**Circulation Access:**

1. The existing Nevada Street right-of-way shall be vacated and a new 60 foot wide right of way shall be dedicated connecting Nevada Street between Edwards Street and Consolidation Avenue.
2. Within the plat, Nevada Street shall be constructed to 28' with concrete curbs, gutters, 5' foot wide sidewalks, street lighting, and enclosed storm drainage on both sides.
3. Nevada Street shall be improved to a minimum standard north of the plat to Lakeway Drive in any area where it is substandard.

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City of Bellingham  
CITY ATTORNEY  
210 Lottia Street  
Bellingham, Washington  
98225  
Telephone (206) 676-6903

- 4. All cul-de-sacs within the plat shall be constructed to 24' with rolled curb, 6 inch thick concrete sidewalk, street lighting, and enclosed storm drainage on both sides. Cul-de-sac rights-of-way shall be a minimum of 50 feet.
- 5. Consolidation Avenue shall be improved to 3/4 City standards of a 28' street adjacent to Phase 1.

**Signage and Pavement Markings:**

- 1. All street signs and pavement markings shall comply with Public Works Department standards.

**Lot Access:**

- 1. All corner lots shall access from the cul-de-sac street.
- 2. All Nevada Street driveways shall meet minimum stopping sight distance standards at 25 miles an hour.

**Water Quality Treatment:**

- 1. All street impervious surfaces are subject to water quality treatment prior to discharge to the existing public transport system.

**Transportation Impact Fees:**

- 1. A transportation impact fee for off-site impacts shall be collected at the time of building permit issuance. The fee shall include a cost component for the Samish Overpass project.

**Surface Water:**

- 1: A stormwater management plan shall be submitted and approved by the Public Works Department and Planning Division. The plan shall be in accordance with the State Dept. of Ecology Stormwater Technical Manual and the City of Bellingham Watershed Master Plan. The following elements must be addressed:
  - a) A permanent water quality facility shall be provided.
  - b) A stormwater detention facility meeting DOE criteria shall be provided. Alternative measures as outlined in the City of Bellingham Watershed master Plan may be substituted. Any alternative measures must be designed and implemented prior to final plat approval.

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 98225  
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- c) An erosion and sedimentation control plan shall be submitted and approved prior to ground disturbance.
- d) There shall be provisions for positive lot drainage for all lots within the subdivision.

**Sanitary Sewer:**

1. All lots shall abut upon a publicly maintained sanitary sewer main capable of providing gravity service and conforming with Public Works Department improvement standards. All sewer mains, along with their size and location, shall be reviewed and approved by the Public Works Department. As required by the Public Works Department, sewer mains shall be extended where necessary to allow for future development around and adjacent to this plat.

**Water:**

1. All lots shall abut upon a publicly maintained water main. Water mains shall be extended from the existing mains in the Briarwood Plat to the existing main on Nevada Street. All water mains shall be sized and installed in accordance with Public Works Department standards and shall be approved by the Fire Marshall.

**Fire:**

1. The water supply for fire protection (fire flow) shall be a minimum of 750 gallons per minute at 20 pounds per square inch residual pressure. Fire hydrants shall be approved by the Fire Department, and shall be located no greater than 500 foot intervals.
2. Street names shall be selected to be consistent with the City's overall street naming plan and shall not conflict with names or homonyms already in Whatcom County.

**Wetlands:**

- 1: Wetland mitigation shall be addressed in a Wetland Permit approved by the Planning Division for the site.

**Landscaping/Vegetation:**

1. A clearing plan shall be submitted to the Department of Planning and Community Development for approval. Mature stands of trees shall be preserved and integrated with the site as approved by the City. Clearing shall not be permitted until after construction plans have been approved by the City, a bond submitted for construction,

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98225  
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and the erosion control plan approved and installed. Selective clearing of brush and trees shall not unnecessarily disturb ground cover and shall be limited to rights-of-way and utility easements until final plat approval, except as necessary to accommodate said construction and only as approved by the Public Works Department and so indicated on the approved construction plans. Additional clearing on any lot shall not occur until a building permit has been issued or a clearing management plan has been approved by the City.

**Parks:**

1. Approximately 15 acres of the site, as shown on Exhibit A, shall be dedicated to the City of Bellingham for open space purposes. This dedication will fulfil the applicant's open space/park dedication requirement for the entire Hawley's site.
2. The final plat shall provide public access from each cul-de-sac and along Nevada Street to the public open space area. Public access points to the open space area shall be provided in locations approved by the Planning Division and Parks Department.

**Future Phases:**

1. Additional administrative site plan review shall be required prior to development on the 50 unit multi-family tract.
2. Additional public review will be required prior to development of Area B as shown on the attached site plan.
3. Phasing of single family lots will be allowed consistent with a plan approved by the City. Preliminary plat shall be extended each time a final plat is recorded with the Whatcom County Auditor's Office.

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CITY ATTORNEY  
210 Lottie Street  
Bellingham, Washington  
98225  
Telephone (206) 676-6903

EXHIBIT C - LEGAL DESCRIPTION

NO. 41125

PARCEL A:

THE SOUTH HALF OF LOT 8, ALL OF LOTS 9 TO 24, INCLUSIVE, AND THE SOUTH HALF OF LOT 25 IN BLOCK 25; LOTS 7 TO 32, INCLUSIVE, IN BLOCK 26; ALL OF BLOCKS 33 AND 34; THE VACATED EAST 10 FEET OF MOORE STREET ABUTTING LOTS 1 TO 6 INCLUSIVE IN BLOCK 34 AND ABUTTING THE SOUTH HALF OF LOT 8 AND ALL OF LOTS 9 TO 16, INCLUSIVE IN BLOCK 25 AND ALL OF VACATED BLOCKS 27, 28, 31 AND 32, INCLUDING VACATED STREETS AND ALLEYS, ALL IN "CEDER ADDITION TO NEW WHATCOM," NOW A PART OF THE CONSOLIDATED CITY OF BELLINGHAM, WHATCOM COUNTY, WASHINGTON, AS PER THE MAP THEREOF, RECORDED IN VOLUME 4 OF PLATS, PAGE 20, IN THE AUDITOR'S OFFICE OF SAID COUNTY AND STATE.

LESS THE EAST 40 FEET OF BLOCKS 28 AND 31 AS DESCRIBED IN AUDITOR'S FILE NO. 1010691.

SITUATE IN COUNTY OF WHATCOM, STATE OF WASHINGTON

PARCEL B:

A TRACT OF LAND SITUATED IN GOVERNMENT LOT 2, SECTION 32, TOWNSHIP 38 NORTH, RANGE 3 EAST OF W.M., DESCRIBED AS FOLLOWS:

ALL OF THE NORTH FIVE ACRES LYING WEST OF THE CENTRAL LINE OF PACIFIC STREET (EXTENDED) EXCEPT 30 FEET ALONG THE EAST SIDE WHICH IS LEFT FOR A STREET.

SITUATE IN COUNTY OF WHATCOM, STATE OF WASHINGTON

PARCEL C:

A TRACT OF LAND IN GOVERNMENT LOT 1, SECTION 32, TOWNSHIP 38 NORTH, RANGE 3 EAST OF W.M., DESCRIBED AS FOLLOWS:

COMMENCING AT A STAKE 403.84 FEET EAST OF THE NORTHWEST CORNER OF SAID LOT 1; THENCE RUNNING EAST 913.76 FEET TO THE NORTHEAST CORNER OF SAID LOT 1; THENCE SOUTH 433.04 FEET; THENCE WEST 543.50 FEET; THENCE NORTH 120 FEET; THENCE WEST 370.26 FEET; THENCE NORTH 313.04 FEET TO THE POINT OF BEGINNING; CONTAINING 8.06 ACRES MORE OR LESS.

SITUATE IN COUNTY OF WHATCOM, STATE OF WASHINGTON

(CONTINUED)

EXHIBIT C - LEGAL DESCRIPTION  
(CONTINUED)

NO. 41125

PARCEL D:

GOVERNMENT LOT 2 IN SECTION 32, TOWNSHIP 38 NORTH, RANGE 3 EAST OF W.M., EXCEPTING THEREFROM THE TRACT CONVEYED TO WILLETTE WORNOTH, BY DEED RECORDED UNDER AUDITOR'S FILE NO. 211054, DESCRIBED AS FOLLOWS:

THE NORTH 5 ACRES WEST OF THE CENTERLINE OF PACIFIC STREET IN SAID GOVERNMENT LOT 2, EXCEPTING FROM SAID 5 ACRES THE EAST 30 FEET, WHICH IS TO BE LEFT FOR STREET.

EXCEPT, ALSO THAT PORTION LYING WITHIN THE "PLAT OF BROADVIEW ESTATES, DIVISION NO. 1," AS PER THE MAP THEREOF, RECORDED IN VOLUME 9 OF PLATS, PAGE 59, IN THE AUDITOR'S OFFICE OF SAID COUNTY AND STATE.

SITUATE IN COUNTY OF WHATCOM, STATE OF WASHINGTON

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Page: 1 of 5  
7/23/2002 3:20 PM  
PLAT \$65.00  
Whatcom County, WA

Request of: TERRY UNGER

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Page: 2 of 5  
7/23/2002 3:20 PM  
PLAT \$65.00  
Whatcom County, WA

Request of: TERRY UNGER

2020703650  
Page: 3 of 5  
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Whatcom County, WA

Request of: TERRY UNGER

**PLAT**

NAME OF PLAT:

Cedar Ridge - Division #2

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Page: 4 of 5  
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PLAT \$65.00  
Whatcom County, WA

Request of: TERRY UNGER

DECLARANTS:

Peoples Bank

Irving H. Hawley JR

Joan Hawley

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Page: 5 of 5  
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PLAT \$65.00  
Whatcom County, WA

Request of: TERRY UNGER

SURVEYOR:

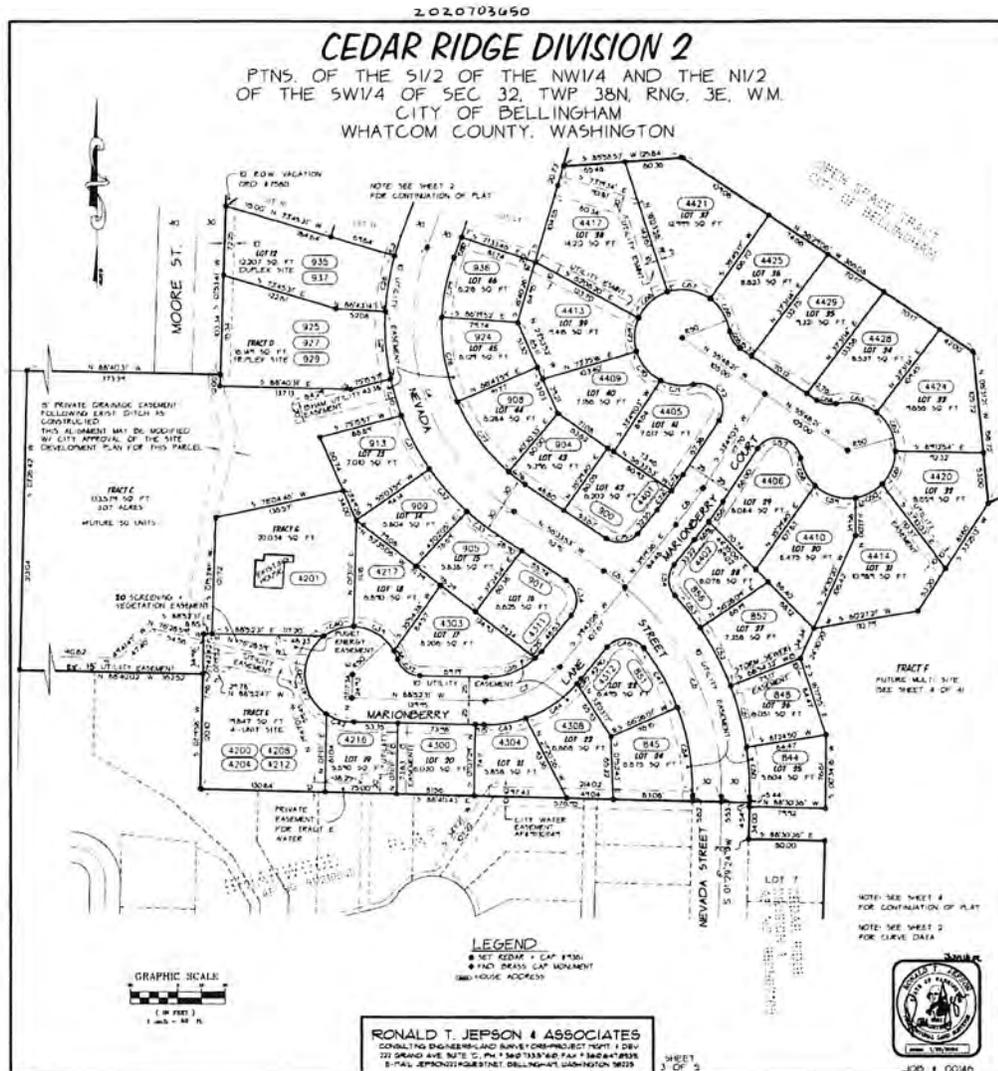
Ronald T. Jepson & Assoc.

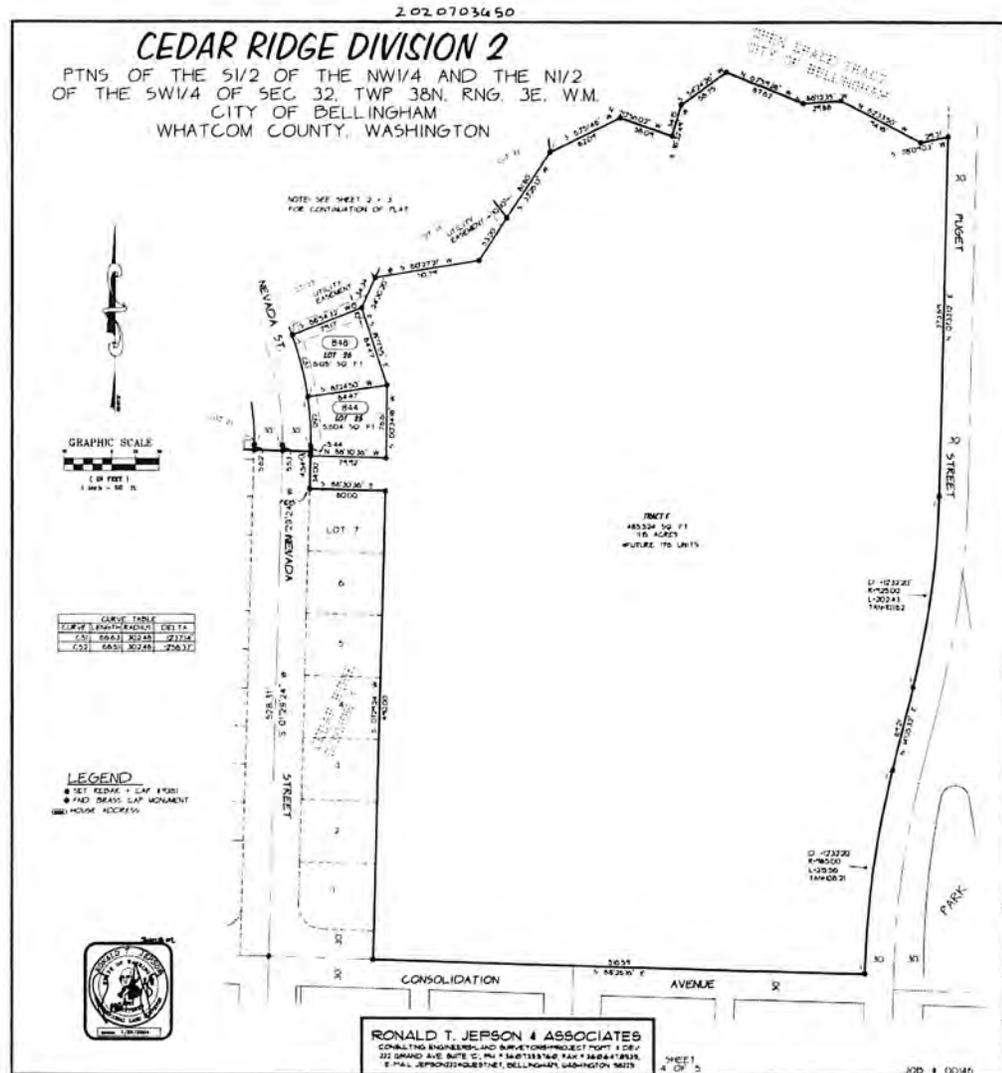
*5 pages*

SECTION: 32 TOWNSHIP: 38 RANGE: 3E









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Hearing Examiner  
Summary and Decision

Hearing Examiner No.  
Planning No.  
Incident No.  
Filing Date  
City Contact  
Hearing Date  
Description  
Decision Date  
Decision Summary  
HE-13-PL-007  
PDC2013-00002 / VAR2013-00001 / DRC2013-00008 / CAP2013-00019

02/08/2013  
Kathy Bell  
09/11/2013  
Planned Development / Variance request of Ambling University Development re 4413 Consolidation Avenue (aka University Ridge)  
10/23/2013  
Approved subject to conditions. Boarding and Rooming Houses not allowed.

**THE HEARING EXAMINER OF THE CITY OF BELLINGHAM**

**WHATCOM COUNTY, WASHINGTON**

**IN RE:** HE-13-PL-007

**AMBLING UNIVERSITY DEVELOPMENT, APPLICANT FINDINGS OF FACT  
4413 Consolidation Avenue CONCLUSIONS OF LAW  
AND ORDER**

**PDC2013-00002, VAR2013-00001, DRC2013-00008 &  
CAP2013-00019 / Planned Development for University Sharon Rice, Hearing Examiner  
Ridge**

Hearing Date:

This matter came before the Bellingham Hearing Examiner for hearing on the 11th day of September 2013 on the application of Ambling University Development Group, LLC for Planned Development approval, height variance, Design Review approval, and a Critical Areas Permit for property located at 4413 Consolidation Avenue in Bellingham to construct and operate purpose-built student housing known as University Ridge consisting of four multi-residential buildings, a clubhouse and parking.

Testimony was received from Kathy Bell, Planning and Community Development Department; Brent Baldwin, Public Works Department; Charles Perry, Applicant's representative; Glen Peterson, Applicant's architect; Brad Swanson, Applicant's legal counsel; Ron Jepson, Applicant's engineer; Joseph Carpenter, 4215 Adams Avenue; Don Diebert, 4414 Marionberry Court; Gaythia Weis, 1713 Edwards Court; Steve Abell, 1021 34th Street; Rod Dean, 848 Nevada; Madeleine Baines, 4417 Marionberry Court; Beth Fryback, 200 Milton Street; Ajit

Rupaal, 805 Queen Street; Patty Bover, 4420 Marionberry Court; Jim Le Galley, 124 S. 44th Street; Dave Ivie, 1101 Nevada Street; Sandy Brown 1229 Toledo Street; Gene Marx, 810 Salmonberry Lane; Terri Marshall, 1125 Nevada Street; John Brown, 233 Terrace Place; Steve James, 1324 Whatcom Street; Anita Lee, 905 Nevada Street; Kathy Taylor, 814 Nevada Street; Sherry Schafer, 128 S. 44th Street; Rebecca Belford, 813 Nevada Street; Erwin Lloyd, 1005 Kelley Ridge Court; Susan Bayer, 825 Queen Street; Jim Bachman, 134 43rd Street; Bill Langley, 4424 Marionberry Court; Jacob Deschenes, 804 Salmonberry Lane; Dan McKinney, Transpo Group; Alan Danforth, 1109 Nevada Street; and Robert Wong, 208 Milton Street. In addition to the Bellingham Municipal Code and Comprehensive Plan, the following documents were considered as part of the record: See *Exhibit List*.

The record was held open for public comment until September 23, 2013 and for responses from City staff and the Applicant until September 30, 2013. Materials relating to prior proceedings for the subject property (Plat of Cedar Ridge, Division 2) were requested on September 11, 2013 and received by the Hearing Examiner on October 11, 2013, at which time the record in this matter was closed.

### I. FINDINGS OF FACT

#### PROPERTY LOCATION, DESCRIPTION & HISTORY

1. Ron Jepson, on behalf of Ambling University Development Group, LLC, applied for Planned Development approval, a Variance from height restrictions, a Critical Areas Permit, and Design Review for a proposed 164 unit, purpose-built student housing development with 576 beds in four multi-unit buildings and a clubhouse on property located at 4413 Consolidation Avenue.
2. The subject property is legally described as Tract F, Cedar Ridge Division 2. It is located in Area 17 of the Puget Neighborhood. This area is designated Residential Multi, Planned, 5,000 square feet per unit overall density. Special conditions include clearing and view.
3. The property is owned by the Irving H. Jr. & Joan Hawley Trust.
4. The property is located north of Consolidation Avenue, west of Puget Street, east of Nevada Street and south of Marionberry Court. It abuts Area 13 of the Puget Neighborhood on the eastern boundary. Area 13 is designated Residential Single, Detached, 10,000 square feet minimum detached lot size, and is developed with single-family residences across Puget Street from the subject property. To the south, across Consolidation Avenue are Areas 3 and 4 of the Samish Neighborhood. Area 3 is designated Residential Multi, Planned, 5,000 square feet per unit. Area 4 is designated Residential Single, Detached, cluster detached, 12,000 square feet minimum detached lot size, one lot/12,000 square feet overall cluster density. The properties across Consolidation Avenue from the subject site are either undeveloped or developed with single-family residences. The properties to the west of the subject site are located within the same area as the proposal, Area 17 of the Puget Neighborhood, and are developed with single-family residences. The property to the north was dedicated to the City for open space purposes as part of the subdivision approval for the Hawley Re-Plat, also known as Cedar Ridge Plat, which included the site of the proposal. This open space area is approximately 15 acres and contains a Category I wetland and buffer. This area will not be developed. It was intended to satisfy the required open space for the Cedar Ridge Plat.
5. The subject site is approximately 11.15 acres, or 485,444 square feet, in size. The property is currently undeveloped and contains a mixed deciduous and coniferous forest canopy with an understory of shrubs and ground cover. The typical slope of the site is 20 – 22%, sloping down from east to west. The eastern portion of the site contains slopes in excess of 40% and is a geologically hazardous area, regulated by the City's Critical Areas Ordinance, BMC 18.55 (CAO). A 100-foot wetland buffer for the Category I wetland located on the City-owned open space property to the north, and along the northern property line of the property, extends onto the subject site.
6. The Hawley Replat, or Cedar Ridge Plat received Preliminary Plat approval in May 1994 in Bellingham Resolution No. 19-94. The plat included 46.71 acres and provided for a total of 123 units, including 64 single-family lots, one duplex lot, one triplex lot, one four-plex lot, and a 50-unit multi-family tract. It also contained a 15 acre open space parcel that was dedicated to the

City and a tract that was labeled Future Development. The tract labeled Future Development is the subject property. The plat conditions provided that additional public review would be required prior to development of the reserve tract. No unit count was assigned to the Future Development tract in the Preliminary Plat Resolution. Division 1 of the plat contained the seven single-family residences abutting Nevada Street north of Consolidation Avenue and immediately to the west of the subject property. Final Plat approval for Division 1 was granted in April 1998 in Resolution 28-98.

7. Division 2 of the Cedar Ridge Plat received Final Plat approval in July 2002 in Resolution 2002-24. Division 2 consisted of 48 single-family lots, one duplex lot, one triplex lot, one 1 four-plex lot, a 50-unit multi-family lot and a reserve tract (the subject property). The Final Plat Resolution shows a site plan identifying the subject property as Tract F Future Multi Site. See Sheet 4 of 4. Sheet 4 is not attached to the Final Plat Resolution. Sheet 4 as recorded with the Whatcom County Auditor has the notation: "176 units" on Tract F. Attachment 1 to the proposed Final Plat Resolution included in the City Council Agenda Bill, described in the proposed Resolution as the Site Plan, shows the same notation for Tract F, "Future Development (176 units)".

8. In October 2004, Cypress Ventures, LLC requested a Plat Alteration and Subdivision Variance for a portion of the property located in Division 2 of the Cedar Ridge Plat. Part of the proposal was to transfer three units from Tract F (the subject property) to Lot 12 and Tracts C and D. The plat alteration was approved to allow further division of Lot 12 (the duplex site) and Tract B (the triplex site) so that the units could be developed on lots that would be individually owned. Tract C (the 50-unit multi-family tract) was also altered to allow single-family attached, cottage, carriage and townhouse units on individual lots to provide an alternative to condominium or apartment development on the sites. The transfer of units from Tract F to Lot 12 and Tracts C and D was denied. The Order of November 29, 2004 indicates that the existing unit count for Tract F shall remain.

9. The maximum density for the entire 48.71 acre parcel included in the Cedar Ridge Plat under the Residential Multi, Planned, 5,000 square feet per unit designation was 408 units. If density was not clustered on the subject site by the Cedar Ridge Plat the subject property would be able to accommodate 97 units at 5,000 square feet per unit zoning.

#### PROCESS

10. The City conducted a pre-application conference for the proposal on December 11, 2012. A pre-application neighborhood meeting was conducted at Carl Cozier Elementary School on January 3, 2013.

11. On January 17, 2013 the Applicant submitted an application for a Variance from height restrictions. This application was put on hold by the Applicant on March 8, 2013.

12. On April 29, 2013 the Applicant submitted applications for the planned development, multi-family design review, a critical areas permit and a SEPA checklist. The variance application was amended and incorporated into the application submittal.

13. A Notice of Complete Application was issued on May 24, 2013. On May 28, 2013 the City issued a Request for Information. On June 18, 2013 the Applicant submitted a response to the Request for Information.

14. On June 10, 2013 the City issued a Notice of Application and Pending Action for the proposal, with a comment period ending June 25, 2013. The site was posted by the Applicant on June 14, 2013.

15. On August 8, 2013 the City issued a threshold Determination of Non-significance (DNS) pursuant to the State Environmental Policy Act (SEPA) for the proposal, with a public comment period ending August 23, 2013. The DNS is Exhibit G to the Staff Report.

16. The Notice of Public Hearing for the September 11, 2013 hearing was published on August 23, 2013.

17. The applications for Planned approval, Multi-family Design Review and a Critical Areas Permit are Type II processes pursuant to BMC 21.10. The application for the Variance from height restrictions is a Type III-A process. The Applicant requested a consolidated review

NOTE: The complete Hearing Examiners Report and Exhibits can be found at  
[www.cob.org/gov/dept/hearing/Lists/cases/Attachments/858/HE-13-PL-007-decision.pdf](http://www.cob.org/gov/dept/hearing/Lists/cases/Attachments/858/HE-13-PL-007-decision.pdf)



Exhibit H - Project Lot Layout 1993

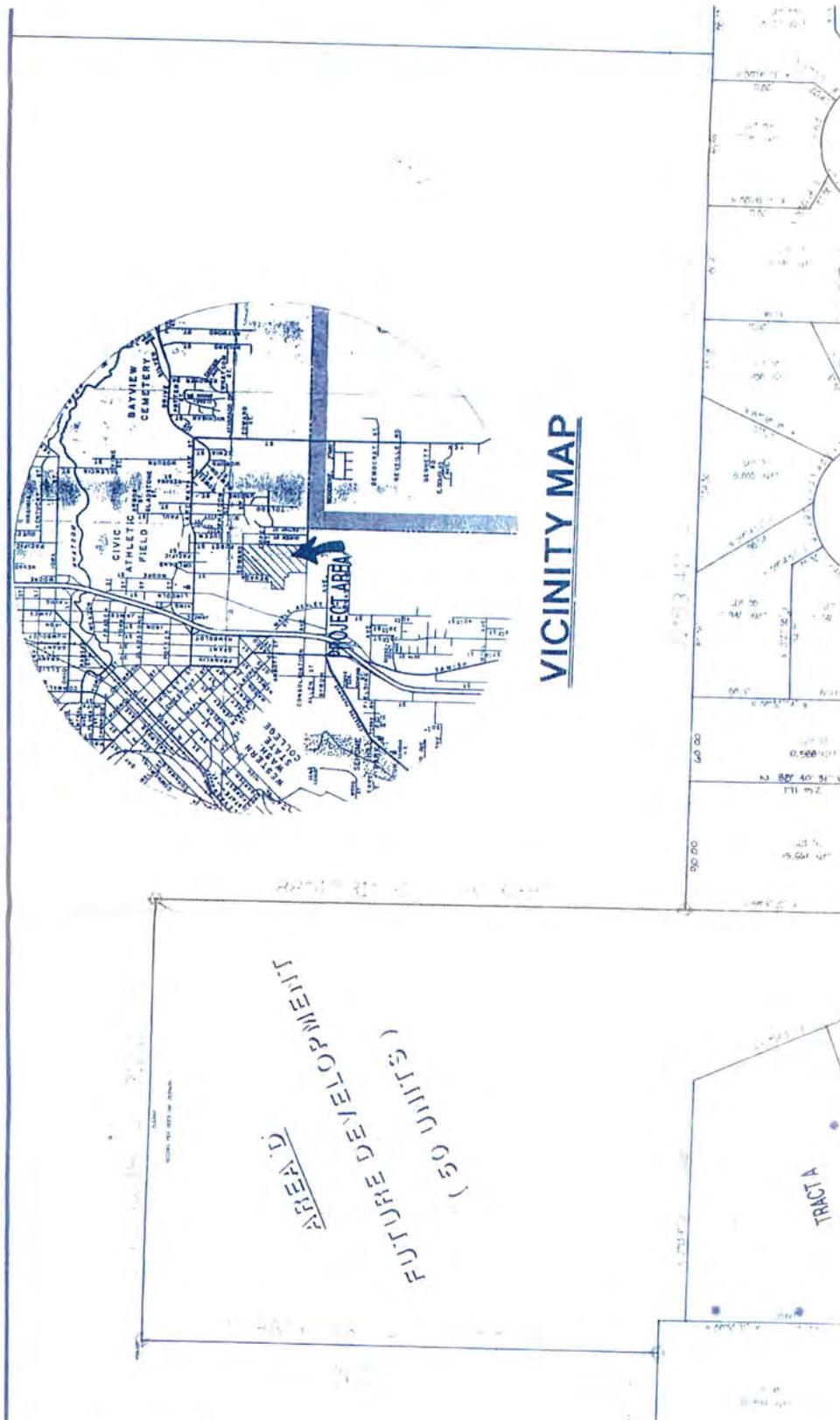


Exhibit H - Project Lot Layout 1993

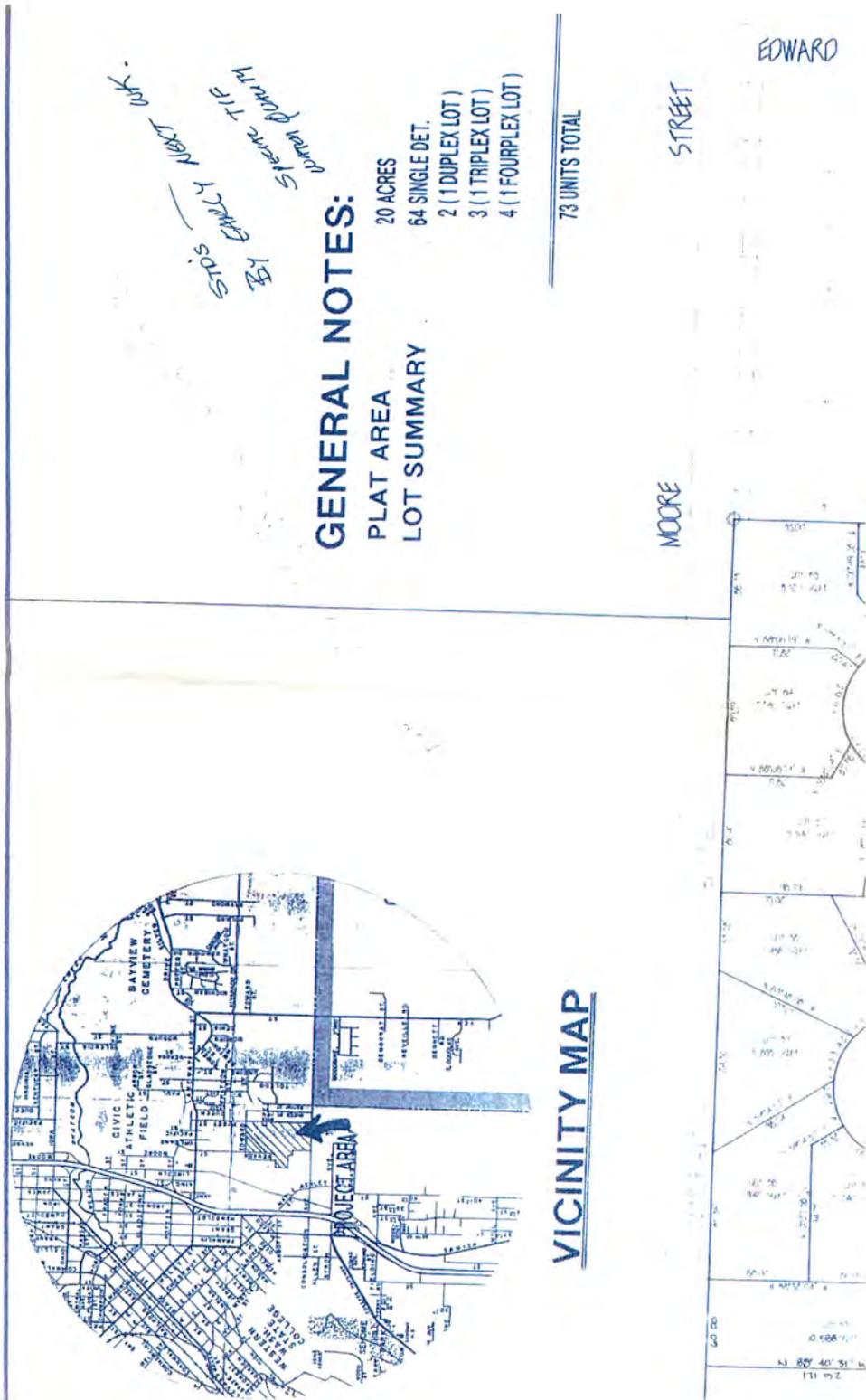


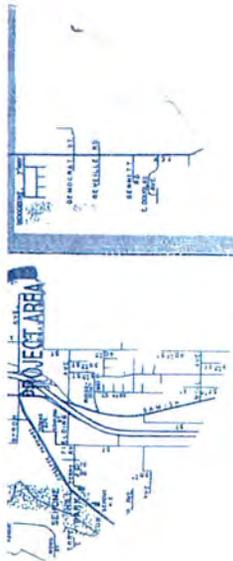
Exhibit H - Project Lot Layout 1993



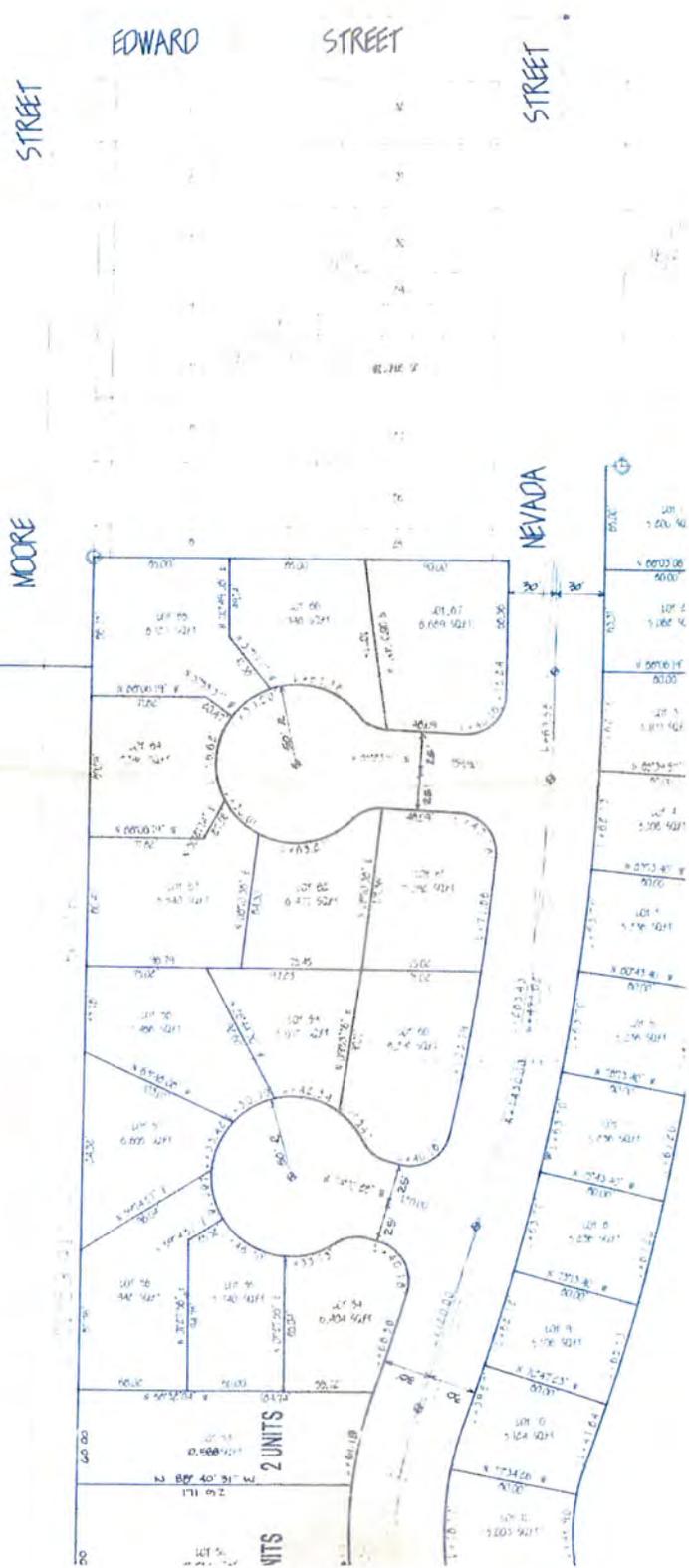
Exhibit H - Project Lot Layout 1993



**GENERAL NOTES.**  
 PLAT AREA 20 ACRES  
 LOT SUMMARY 64 SINGLE DET.  
 2 (1 DUPLEX LOT)  
 3 (1 TRIPLEX LOT)  
 4 (1 FOURPLEX LOT)  
 73 UNITS TOTAL



**VICINITY MAP**



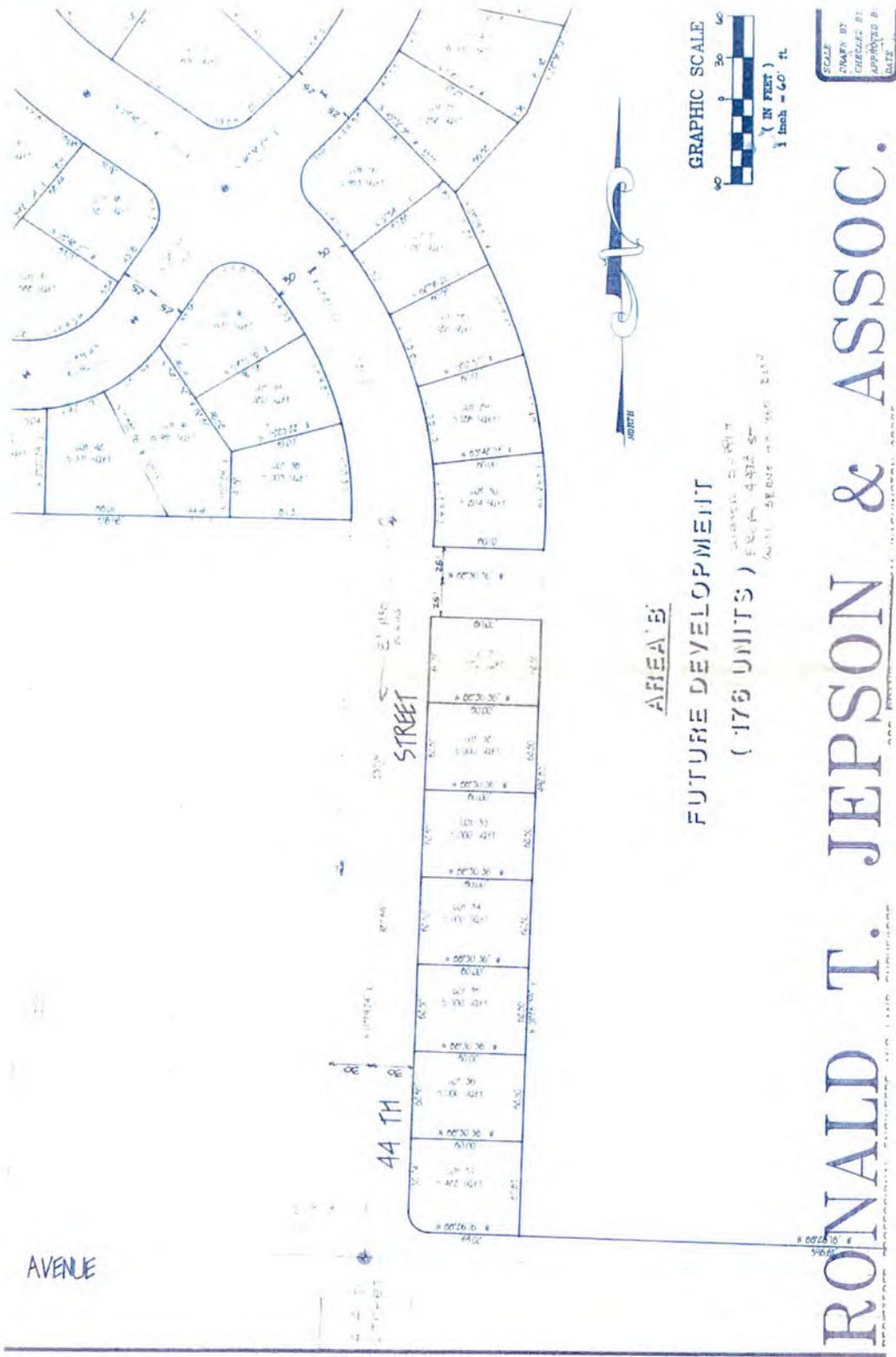


Exhibit H - Project Lot Layout 1993

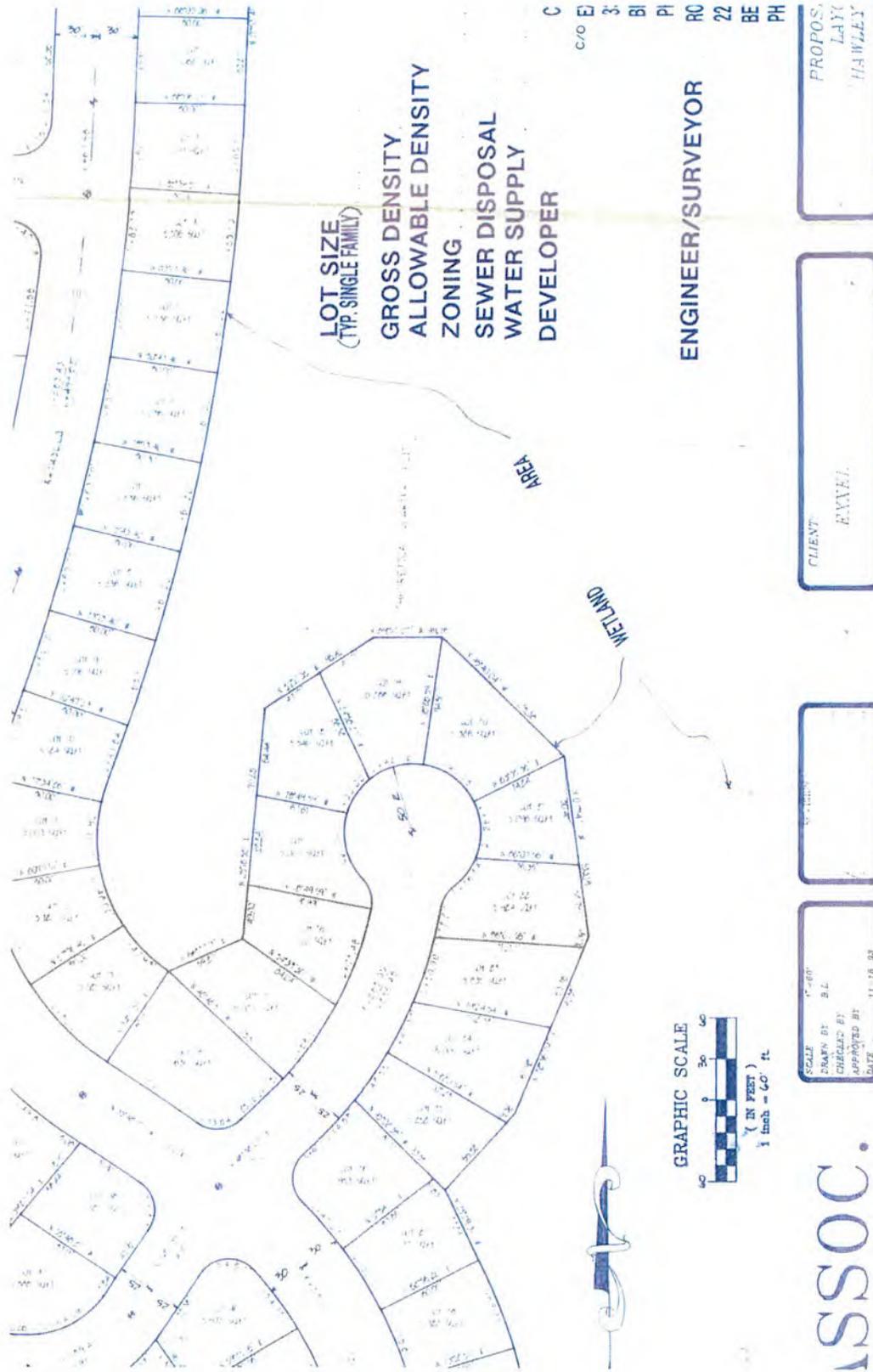


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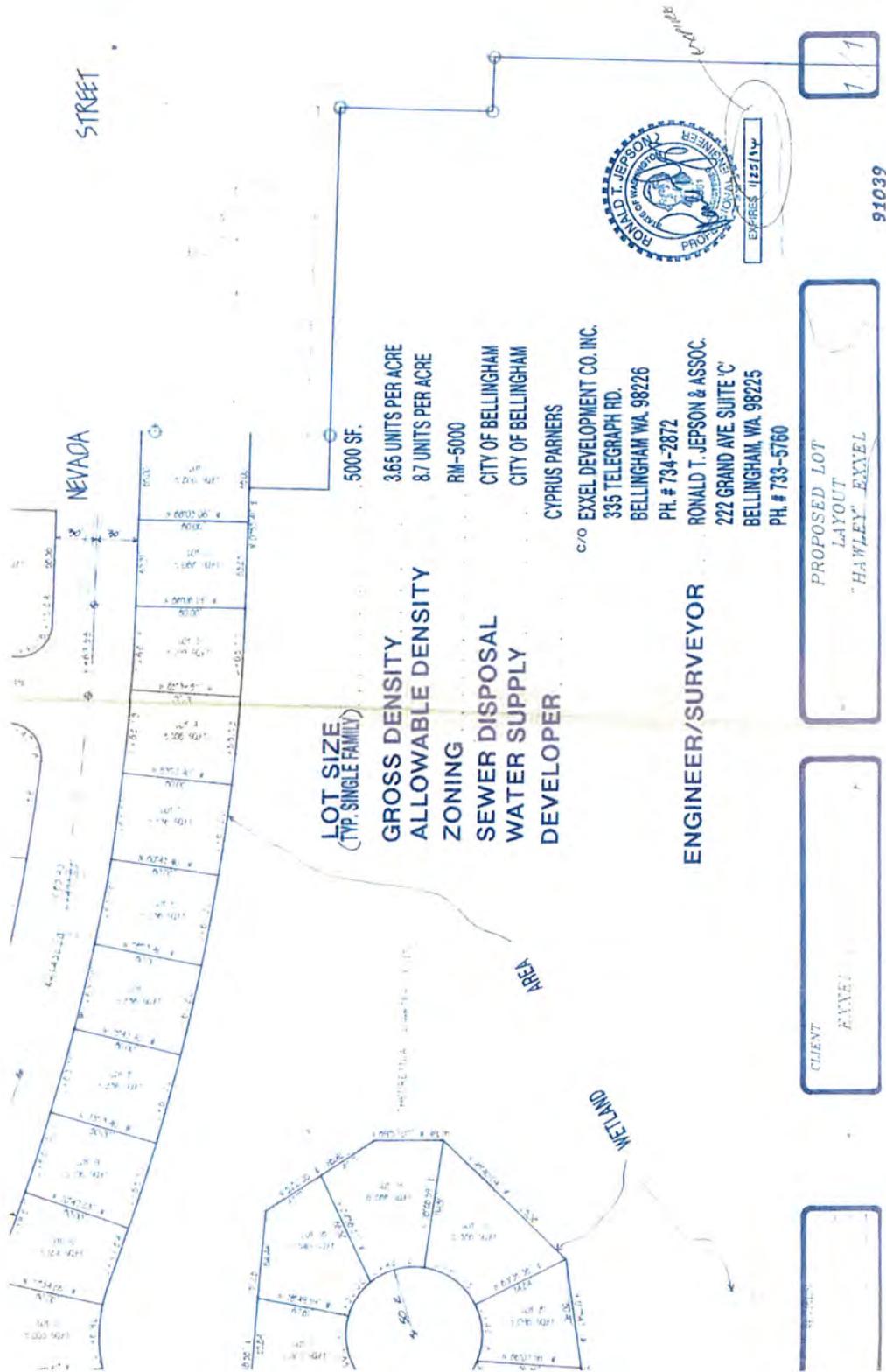


Exhibit H - Project Lot Layout 1993

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Donald Diebert  
4414 Marionberry Ct.  
Bellingham, WA 98229  
360-778-1531  
[dondiebert@outlook.com](mailto:dondiebert@outlook.com)  
May 5, 2020

Kathy Bell  
Senior Planner  
Planning and Community Development Department  
City of Bellingham  
210 Lottie Street  
Bellingham, WA 98225

Re: Planned development (PDP2019-0015)/Design review (DR2019-0036)/Height variance (VAR2019-0009)/Critical area permit (CAP2019-0037)/SEPA checklist (SEP2019-0039)  
Project location: 4413 Consolidation Avenue/ Area 17

Dear Ms. Bell:

The Preliminary Grading Plan and Critical Area Report: Wetland Mitigation Plan, both fail to include an important drainage ditch located directly below Wetlands B. Additionally, an unnecessary assumption concerning fire access is used to justify encroachment/construction on the wetlands buffer.

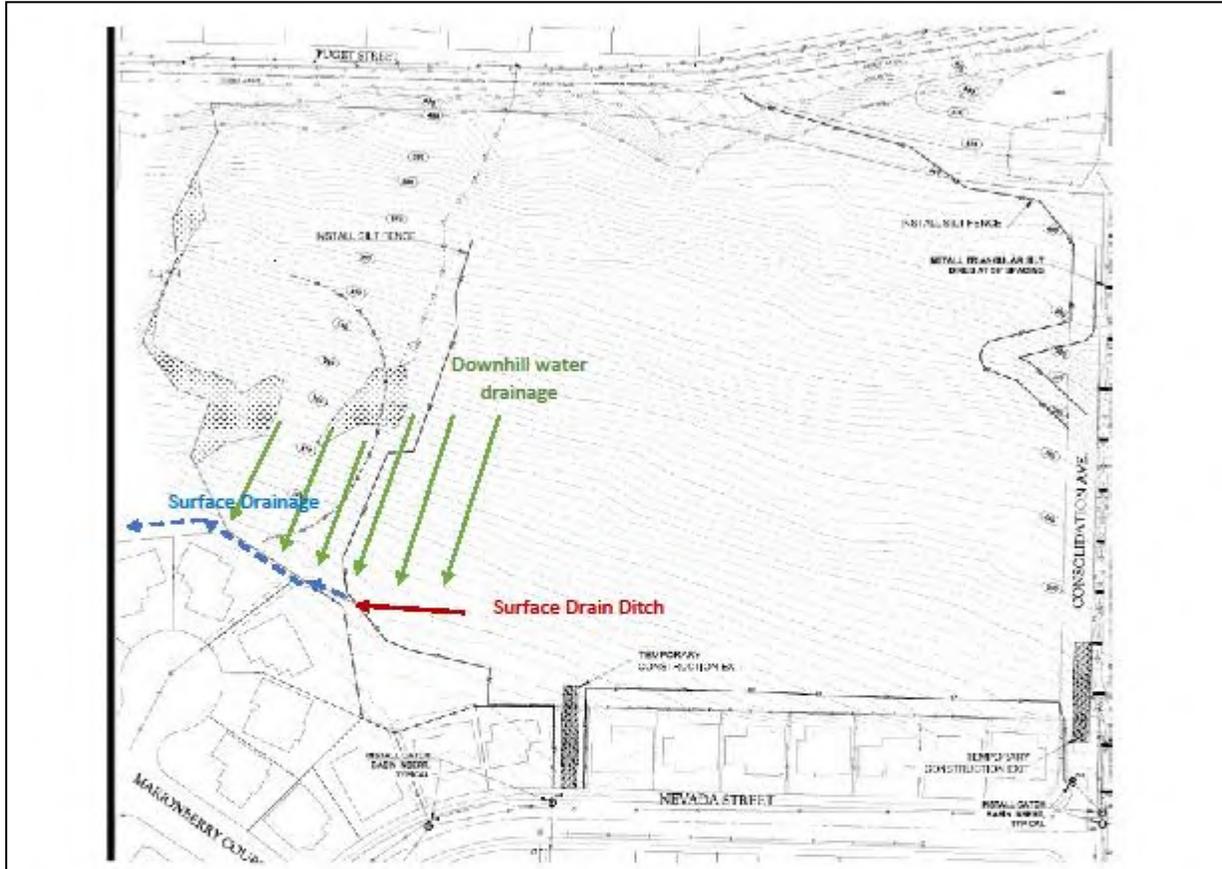
***Failure to Account for Open Surface Drainage***

The Critical Area Report: Wetland Mitigation Plan (page 2, 3.1 Watershed), states that water drains, “onto the property through a culvert under Puget Street and forms a narrow drainage feature (one to two feet wide) and small wetland (Wetland B). The drainage flows westward downslope into and through Wetland B. Water appears to disperse into the subsurface below Wetland B – as no downgradient channel was observed.”

However, there is an existing surface drain (see Preliminary Grading Plan map, next page) that runs from the northern property line, extending south approximately 100 feet. Given the location, this drain is collecting water from an area that directly below Wetland B.

Much of the water is actually diverted into an open air drainage ditch that extends through and behind yards on Marionberry Ct. This creates an intermittent stream depending on the amount of run-off collected up the hill. Below is the Preliminary Grading Plan – temporary barriers, with the surface drainage outlined. This drainage is apparently not accounted for, which should be part of the Wetlands B evaluation.

## Preliminary Grading Plan with Surface Drainage Ditch Identified



### ***Restricted Emergency Access Road not required***

The original development planned for a single, huge building which, “Due to the size of the proposed building a secondary fire access road is required for Emergency access. Use of this lane will be restricted to emergency vehicles only, with no Residential vehicle use. This restricted access, paved fire lane will be installed off of Nevada Street.”

Due to this claim, the proposed “buffering” plan to mitigate Wetland B impacts, results in construction of an unnecessary, large, impervious roadway designated as an emergency exit. Due to an “emergency use only” designation, this is presented as a preferred alternative to maintaining an open, natural environment, which maintains the wetland area and critical drainage of the property.

The revised proposal eliminates the single, huge building with three much smaller buildings. The 2013 University Ridge proposal, with a similar building layout, was approved without an Emergency Access Road. Therefore, this road is not required, which if eliminated along with the small parking area “F”, would appear to better deal with the Wetland mitigation issue.

Sincerely

Donald Diebert, Member  
Puget Neighborhood Preservation Work Group

Donald Diebert  
4414 Marionberry Ct.  
Bellingham, WA 98229  
360-778-1531  
[dondiebert@outlook.com](mailto:dondiebert@outlook.com)  
May 5, 2020

Kathy Bell  
Senior Planner  
Planning and Community Development Department  
City of Bellingham  
210 Lottie Street  
Bellingham, WA 98225

Re: Planned development (PDP2019-0015)/Design review (DR2019-0036)/Height variance (VAR2019-0009)/Critical area permit (CAP2019-0037)/SEPA checklist (SEP2019-0039)  
Project location: 4413 Consolidation Avenue/ Area 17

Dear Ms. Bell:

The CityView dormitory development will have a profound Impact on the Puget Neighborhood, especially due to its size, impact on views and neighborhood compatibility. Yet these issues are not fully addressed in the developer's application.

Thus, I am writing to expand the View Analysis to include all parts of the neighborhood, provide an example of a similar height local building for comparison and review how the proposal fails the City of Bellingham Comprehensive Plan.

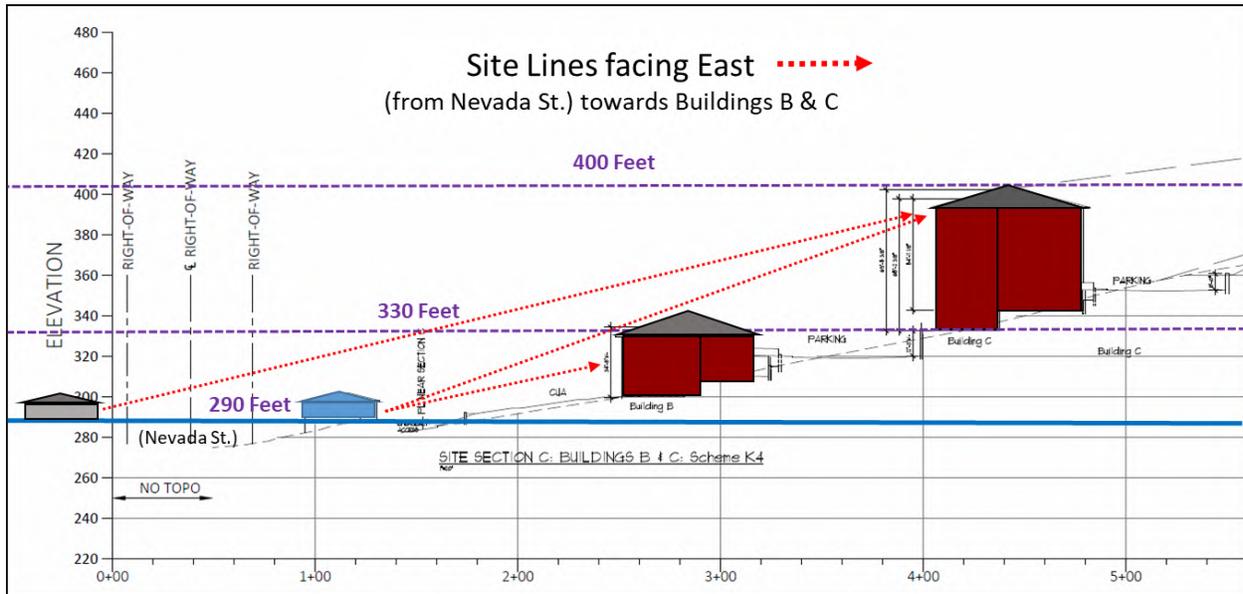
***Failure to Document View impacts upward from Nevada St. and Marionberry Ct.***

Unfortunately, the proposal fails to show how the CityView dormitory will have major impacts on the Puget Neighborhood, especially the surrounding homes. The Site View plan fails to address the major visual impact (View) to the surrounding neighborhood.

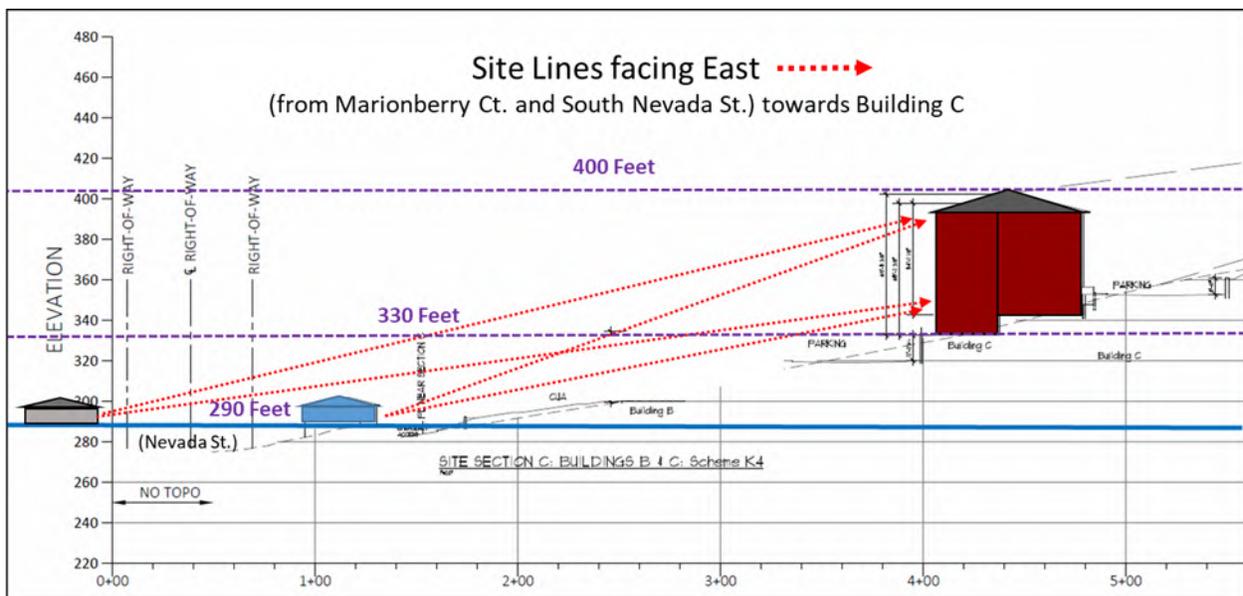
The CityView View Analysis (Site Plan Analysis) purports to show little impact to those homes located to the South (Consolidation St.) and uphill to the East (Puget St.) of the development. However, *there is no Site Plan Analysis* showing the visual impact to the homes to the West (Nevada St.) and North (Marionberry Ct.) of the development. Yet, by far, Nevada St. and Marionberry Ct. are the most severely impacted by the development that towers a hundred feet over homes in the neighborhood!

The Area 17 Zoning (Puget Neighborhood) chart includes a special condition for View. As presented, *only part of the View* impacted by the CityView development is analyzed; to complete the application, all impacts must be analyzed and fairly presented.

**Projected View from Nevada St – Buildings B & C.** The following visual (based on the developer’s submission) shows the visual impact of constructing 3 and 6 story buildings on a steep hill, above one to two story homes. As you can see, the buildings effectively tower over existing homes.



**Projected View from Marionberry Ct and southern Nevada St – Building C.** This visual shows the impact of Building C only, which will be the view from Marionberry Ct. (to the north) and Nevada St. (farther south), where Building B will not be directly in front of Building C.



**A Local Example of a building 110 feet tall (Mathes Hall at WWU).** Below is a picture from ground level of a 110 foot tall building here in Bellingham, the Mathes Hall dormitory at Western Washington University. This will be similar to the view of the CityView buildings from the north and west of the neighborhood. Clearly, a few deciduous trees in front of this building cannot hide its scale and impact on the surrounding homes!



### ***CityView Fails the Comprehensive Plan***

The Comprehensive Plan includes numerous directives for consideration of new development within existing neighborhoods as follows:

- **Policy CD-7 (Community and Character)** Ensure that new development is of a type, scale, orientation, and design that maintains or improves the character, aesthetics, and livability of neighborhoods. While compatibility is more of an issue in established neighborhoods, new development needs to take into account the context of the area and should result in an improvement to the surrounding neighborhood.
- **GOAL CD-3 (District and Neighborhood Identity)** Establish and reinforce district and neighborhood characteristics recognized both within the community and throughout the region.

- **Policy CD-22 (Site and Building Design)** Use design standards and design review to accomplish the following:
  - Ensure elements of design, proportion, rhythm, scale and massing are appropriate for proposed structures and sites and contextually compatible with surrounding development.
  - Encourage the use of low impact development practices where feasible.
  - Minimize negative impacts such as excessive lighting and glare and unsightly views of parking.
  - Provide reasonable solar access and privacy to adjacent property.
  - Where feasible, preserve significant trees and mature vegetation.
- **Policy CD-33 (Appropriate Infill Development and Renovations)** Encourage the construction of innovative small-scale housing types that fit the context of single-family neighborhoods such as accessory dwelling units, cottage housing, cohousing, townhomes, zero lot line homes, and small lot housing.

***Comprehensive Plan Goals***

These goals state, that development must, “Ensure that Bellingham has a sufficient quantity and variety of housing types and densities to accommodate projected growth and promote other community goals.”

- **GOAL H-2** Foster housing that is safe, healthy, livable, and affordable for all income levels in all neighborhoods.
- **GOAL H-3** Promote sense of place in neighborhoods.
- **GOAL H-4** Support housing options for special needs populations.

**Summary**

The CityView dormitory proposal, by failing directives of the Comprehensive Plan, imposing an oversize structure, thus negatively impacting views and neighborhood compatibility, should not be approved.

Sincerely

Donald Diebert, Member

Puget Neighborhood Preservation Working Group

**Aven, Heather M.**

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**From:** Virginia Herrick <virginiafherrick@gmail.com>  
**Sent:** Tuesday, May 5, 2020 1:38 PM  
**To:** G.Proj.City View  
**Subject:** Cityview apartment complex

Dear Mr. Sepler and Planning Commission,

I am opposed to a development the size of what is proposed for the Cityview apartment complex in this location. A six-story apartment building is not only completely outside the neighborhood's existing nature and traffic patterns, but to offer only 250 parking spaces for upwards of 300 students is almost certain to create traffic problems for the surrounding single-family neighborhood -- which already sees considerable problems from the boarding house-style homes across Ashley from the new student apartments there. The fact that students live in those houses is not the problem: the problem is that parking is inadequate along Ashley, leading to unsafe driving and parking conditions. I can only imagine what will happen to the single family neighborhoods around Consolidation and Nevada, if this project is allowed to proceed as planned. It should be scaled back by 50% at least. And there should be a significant effort to preserve as much of the woods in the vicinity as possible.

Thank you for your consideration of my concerns,

Sincerely,

C. Virginia Herrick  
3909 Fielding Ave  
Bellingham, WA 98229

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## Aven, Heather M.

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**From:** rod <merlin32@comcast.net>  
**Sent:** Tuesday, May 5, 2020 4:12 PM  
**To:** G.Proj.City View  
**Cc:** Alan Hui  
**Subject:** Response to developer application

Kathy Bell, Senior Planner  
Dear Kathy,

This letter is in response to a development application for 4413 Consolidation Ave known as CityView. My wife and I object to the plan as presented and offer the following points for your consideration.

- 1) Parking on site: does not seem adequate for the number of bedrooms. The fear is that the excess cars will try to park on Nevada or Consolidation. The overflow from the Maple Park apartments onto Ashley is an example.
- 2) Traffic: Nevada and Consolidation already seem to be at their maximum for residential streets. Adding 300 cars will definitely make the situation worse. There are two main exits from the area. Turning left onto Lakeway is difficult and dangerous most of the time. The lack of enforcement of the 25 MPH speed limit only exacerbates the situation. Turning left onto Lincoln from Ashley is also difficult at times of the day and turning right can also be impossible because of being blocked by the cars ahead wanting to turn left.
- 3) Noise: This is two-fold. The ongoing noise from “plopping” 300 plus people and cars into the area and the noise and disruption to the area during construction. Suggest that construction be limited to 8am – 5pm Monday thru Friday with no work on Saturday or Sunday
- 4) Water: Springs run continuously northerly and westerly during the winter. Removing 50 percent of the vegetation will worsen the situation.
- 5) Density: The question is how many people will be able to live on site? The developer would have us believe that 318 bedrooms equals 318 people. What about married couples? Small children? This could skyrocket the density to 1000 people and many more cars.
- 6) Access: Consolidation Ave will not adequate for the traffic and building a ¼ extension is laughable. It would need to be widened with sidewalks all the way to Lincoln.
- 7) Appropriateness: This is a single-family neighborhood. It is simply not appropriate and will totally change for the worse the nature and quality of the area.

Regards,  
Rod and Susan Dean  
848 Nevada St

Sent from [Mail](#) for Windows 10

## Aven, Heather M.

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**From:** John Keates <johnkeates@comcast.net>  
**Sent:** Tuesday, May 5, 2020 9:07 PM  
**To:** G.Proj.City View; Susan Keates  
**Subject:** CityView Apartment Development

Dear City of Bellingham:

My wife and I are writing to provide comment on the proposed CityView Apartment Complex, which would be NE of our home located at 224 Milton Street.

We OPPOSE this proposed development of variety of reasons. The following are just a few of our concerns:

1. The development as we understand it would be a two to three level apartment complex in what is now a peaceful and relaxing single-family residential area. It simply does not belong in the proposed location or fit into the existing development.
2. The increased traffic alone would be of great concern. We fail to see how the existing City street network would accommodate such an increase.
3. Multi-family housing, as this is proposed, is better suited on Lakeway, Bill McDonald Parkway or other similar City streets. Again, we don't feel this development is a good fit for our existing single-family residential neighborhood.

Honestly, we're somewhat astonished that this proposal has gotten this far as it is so inappropriate.

We don't oppose a developers desire to make money and develop property that they own, but it should be appropriate development. If this particular developer wants to develop this property, then we would suggest that he/she comes up with a single-family residential concept, which would be more appropriate for this neighborhood.

Better yet, we'd like to see the property retained as a greenspace, but we understand that the City of someone else would have to compensate the developer for the property.

Frankly, this proposal reeks of developer greed and overreach. They want to develop and leave us with a neighborhood eyesore that simply doesn't fit with the existing landscape. PLEASE, don't let them get away with it, because in the end if you – the City permits this development, we'll all regret it!

Sincerely yours,

John and Susan Keates  
224 Milton Street  
Bellingham

Sent from [Mail](#) for Windows 10