



Public Comment

Name

Rebecca Brownlie

Full name or organization

Your name is required for identification as a part of the public record.

Choose Topic

The Woods at Viewcrest

Topics available for online public comment are listed above. If no topics are listed, there may be opportunities for public comment on various topics through email, letters, and public comment periods during meetings.

More information on this topic can be found at <https://cob.org/project/the-woods-at-viewcrest>

Comment or Testimony

I'm completely against this building project. I'm averse to growth for growth sake in Bellingham in general. Everyone forgets that for every luxury home you build, you are not addressing affordability for locals nor do people think of the increased problems with automobiles... each home a minimum of two cars. It's a real problem. I ask what kind of city and community do we want? People move from Seattle to Bellingham to get away from traffic, noise, etc but alas we are just creating the same problem here unless we are conscious about our growth. Areas that are critical for wildlife , water, and safety require more care and should not be rammed through. I believe in slow. You can't go back in time once you mess it up.

Files

Documents or images related to your comments.

Email

beckybrownlie@me.com

Your email address will only be used to send you a copy of this comment and any official notifications related to this topic.

Date

8/23/2025



Public Comment

Name

Barbara Morey

Full name or organization

Your name is required for identification as a part of the public record.

Choose Topic

The Woods at Viewcrest

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Comment or Testimony

Mud Bay Cliffs is an environmentally delicate area and a wildlife corridor. I'm concerned that an environmental impact statement has not been required. The very name "cliffs" is clear that building, drainage, and infrastructure will have a significant impact on the area.

Files

Documents or images related to your comments.

Email

barb_morey@msn.com

Your email address will only be used to send you a copy of this comment and any official notifications related to this topic.

Date

8/21/2025



Public Comment

Name

Tina McKim

Full name or organization

Your name is required for identification as a part of the public record.

Choose Topic

The Woods at Viewcrest

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Comment or Testimony

I co-sign the following letter from REsources:

RE: SEPA MDNS decision for The Woods at Viewcrest Development

Dear Mr Sundin and Ms. Bell,

Thank you for the opportunity to comment once again on the proposal to develop the 38-acres on the Mud Bay Cliffs overlooking Chuckanut Bay. After reviewing the updated documents on the City's website and the expanded SEPA review, we still believe that the construction of the 38 properties will have significant environmental impacts.

RE Sources is a non-profit organization located in northwest Washington and founded in 1982. We mobilize people in Northwest Washington to build just and thriving communities and to protect the land, water and climate on which we all depend. RE Sources has thousands of supporters in Whatcom, Skagit, and San Juan counties, and we submit these comments on their behalf.

There has been some effort made by the developers to minimize impacts from the development project but there will still be considerable, long-term environmental and societal damages done.

The undeveloped, open space that people in the surrounding neighborhoods have come accustomed to and rely on for recreation and tranquility will be destroyed.

The refugia and habitat corridor that wildlife rely on will be considerably impacted. Blasting and construction noise and chaos for several years will likely spook away the majority of the wildlife. The wildlife analysis found no federally listed species on the property but 28 non-federally recognized species were found and they play significant roles in our ecosystem and still have value.

Native trees and shrubs will be removed to make way for buildings and roads which will create an ideal pathway for invasive species to take root, further degrading the habitat.

The documents claim that 80% of the trees will remain in place initially; removing 20% of the canopy and rooting structure can dramatically change the forest climate and slope stability. Furthermore, there is no guarantee that additional trees won't be removed once people move into their houses, creating more expansive views. This could leave the area much more vulnerable to erosion and wind blown trees.

The geotechnical reports claim there are risks associated with building on such steep terrain. A landslide could be catastrophic to human lives and property, as well as the water quality in Chuckanut Bay.

The developers justify the number of properties being built by saying they could legally double that number. The topographic maps tell a different story; the current plan occupies all the more easily buildable flatter areas, leaving only very steep terrain undeveloped. These flatter areas are also the places that wildlife and people use for habitat and recreation, respectively. This means that almost all of the buildable and habitable land will be occupied by buildings.

Increased impervious surfaces along with toxic building materials, household chemicals, and pets will result in toxic stormwater chemicals being discharged into Chuckanut Bay. The proposed pretreatment of stormwater in modules and detention will help mitigate high flows but it will not filter out stormwater toxics such as 6PPDq, petroleum, sediment, and bacteria. This will further degrade the already impaired Bay. Connecting to the City's sewage system should minimize fecal coliform contamination in the short term, but over time sewage pipes can get clogged and damaged resulting in eventual fecal contamination.

Natural gas may be used to heat the properties which will result in greenhouse gas emissions. Why not limit natural gas for cooking and use electricity for heat? Electric heat pumps would provide both heating

Files

Documents or images related to your comments.

Email

tinamckim@yahoo.com

Your email address will only be used to send you a copy of this comment and any official notifications related to this topic.

Date

8/16/2025



Public Comment

Name

Miles Silverman

Full name or organization

Your name is required for identification as a part of the public record.

Choose Topic

The Woods at Viewcrest

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More information on this topic can be found at <https://cob.org/project/the-woods-at-viewcrest>

Comment or Testimony

To the planning department,

The best I can say about the proposed development is that it builds housing, which we need, and that Edgemoor's density is so remarkably low that cycling to Fairhaven should be a non-issue.

Have we not learned anything in the past ten years? Have the myriad municipal and state-level policy changes been for naught? Were we not done with suburban sprawl?

In recent years, new greenfield developments in the north of town have sought to repair the reputation of building out by including redeeming qualities in what they build. These places are designed to be best experienced on foot, with lively street frontages (some of which even narrow when street parking is not needed), dedicated pedestrian walkways, continuous sidewalks and raised crossings, and public green spaces to be shared by all, while garages are tucked away to support these streets. Multimodal connections via bus are also robust, allowing people to easily get to and from these neighborhoods without a car. A mix of housing shapes and sizes are built in these neighborhoods, providing more affordable places to live and enabling a more fiscally responsible level of housing density.

Essentially none of these lessons can be found in the proposed project. Lots are large and generously spaced (posing problems for both community-building and the city's finances in a few decades), streets are nearly thirty feet wide but somehow only manage a sidewalk on one side with no boulevard, there is no public space and little transit service anywhere near the site, and one can be certain the houses built here will sell for seven figures.

Of all the ways to tackle the housing crisis, this is one of the least responsible ways to do so.

Miles Silverman
Cordata

Files

Documents or images related to your comments.

Email

selixmi42@gmail.com

Your email address will only be used to send you a copy of this comment and any official notifications related to this topic.

Date

9/9/2025



Public Comment

Name

Upper Skagit Indian Tribe

Full name or organization

Your name is required for identification as a part of the public record.

Choose Topic

The Woods at Viewcrest

Topics available for online public comment are listed above. If no topics are listed, there may be opportunities for public comment on various topics through email, letters, and public comment periods during meetings.

More information on this topic can be found at <https://cob.org/project/the-woods-at-viewcrest>

Comment or Testimony

The Upper Skagit Indian Tribe would request that the City of Bellingham complete an EIS to allow the Tribe to evaluate any potential future adverse impacts to its federally protected reserved treaty resources in and around Chuckanut and Samish bays.

Scott Schuyler Natural & Cultural Resources Policy for the Upper Skagit Tribe

Files

Documents or images related to your comments.

Email

sschuyler@upperskagit.com

Your email address will only be used to send you a copy of this comment and any official notifications related to this topic.

Date

11/6/2025



Public Comment

Name

Mary Pershing

Full name or organization

Your name is required for identification as a part of the public record.

Choose Topic

The Woods at Viewcrest

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Comment or Testimony

People moved to Bellingham to see hillsides of trees and nature, not of housing developments. That is what has made Seattle and any other once beautiful natural area so un-livable, and what makes Bellingham special and unique. For a short term gain, we are ruining a place that has an indefinite number of years of recreational and natural beauty for tourism forever. We are developing enough everywhere, why here - why these woods - why when there is hardly any wild untouched nature left? Please have the long term perspective to stop these developments of massive housing for the wealthy and protect those that have no monetary way to protect themselves. (wildlife, nature, etc.)

Files

Documents or images related to your comments.

Email

pershing.molly3@gmail.com

Your email address will only be used to send you a copy of this comment and any official notifications related to this topic.

Date

8/18/2025

Kathy M Bell

From: Rud Browne <Rud@rudbrowne.com>
Sent: Tuesday, October 14, 2025 4:18 PM
To: HE - Shared Department
Cc: Kathy M Bell; Steven C Sundin; Rogan Jones; ali; Greg Gudbranson
Subject: RE: RESPONSE to - MDNS The Woods at Viewcrest, 352 Viewcrest Road - Additional Evidence
Attachments: PLA5-2-1_Chuckanut_Bay_Subdivision_BRIZA_RES_48-1986.pdf

CAUTION: This message originated from outside of this organization. Please exercise caution with links and attachments.

Dear Examiner Rice

Further to our email of August 7, 2025 we wish to add the following to the record for your consideration.

Exhibit A below is taken from Page 207 of the attached final official Plat Resolution issued by the COB on the 27th of October 1986 (**PLA5-2-1_Chuckanut_Bay_Subdivision_BRIZA_RES_48-1986.PDF**). it includes a Utility and Access easement over the western half of the cul-de-sac at the of Sea Pines Rd. As shown in Exhibit B (which we previously provided), the entrance of our driveway is located within the southern section of the easement shown on the official Plat and has been continuously occupied and used by us and previous homeowners for over 35 years.

We respectfully request that our previously stated concerns about the significant safety hazards that will be created by the developments proposed new trail's encroachment onto the area occupied by our easement be addressed by relocating the trail's access further south and the installation of barriers to prevent any and all potential conflict between cyclists/pedestrians and vehicles accessing our driveway.

Exhibit A

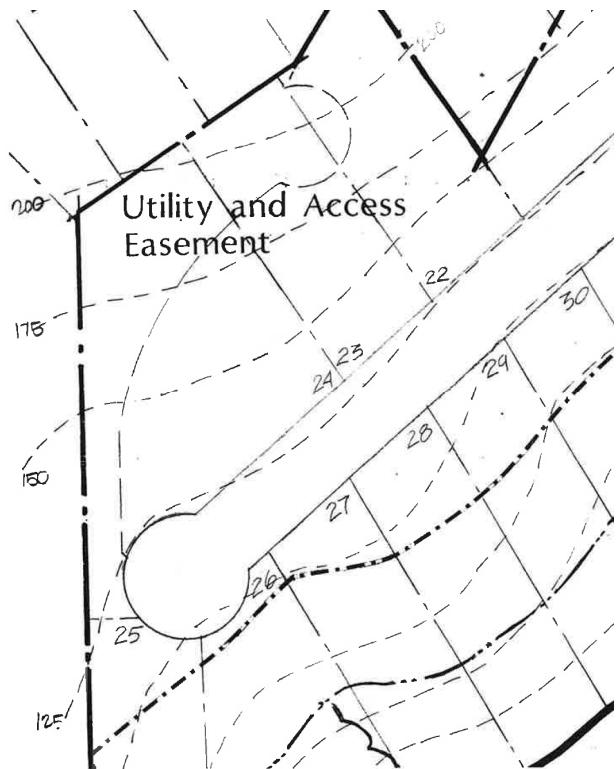
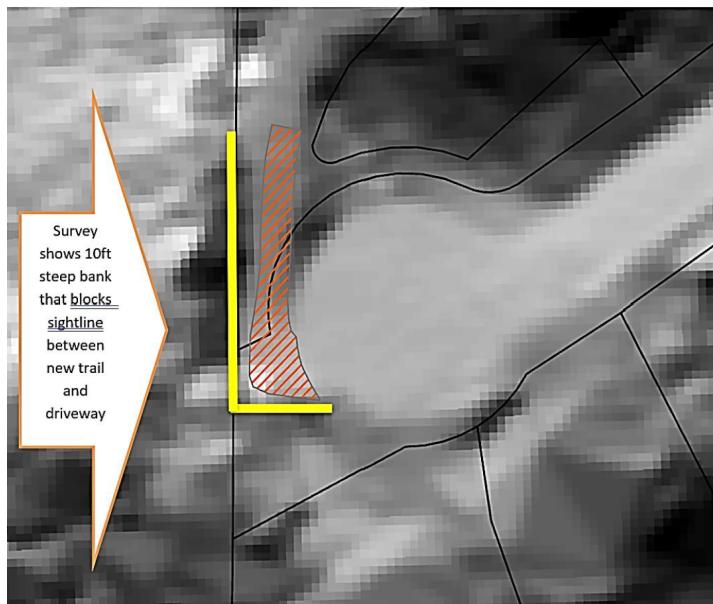


Exhibit B



Be well.

Rud

Rud Browne
360-612-0000 <- NEW NUMBER

From: Rud Browne <Rud@RudBrowne.com>
Sent: Thursday, August 7, 2025 4:20 PM
To: 'hearing@cob.org' <hearing@cob.org>
Cc: 'Kathy M Bell' <kbell@cob.org>; 'Steven C Sundin' <ssundin@cob.org>; Rogan Jones (rogan@affoinfo.com) <rogan@affoinfo.com>; 'ali@avtplanning.com' <ali@avtplanning.com>; Greg Gudbranson (2014loudog@gmail.com) <2014loudog@gmail.com>
Subject: RESPONSE to - MDNS The Woods at Viewcrest, 352 Viewcrest Road

Dear Examiner Rice

Please find attached our objection to the MDNS due to its lack of response to the same safety concerns we raised 2 years ago regarding the proposed trail entrance to Sea Pines Rd. While we now believe it is possible for both the trail and the development to coexist, this can only be achieved by a redesign of the trail location and the addition of appropriate safety barriers.

Thank you for considering our comments

Be well.

Rud

Rud Browne
360-612-0000 <- NEW NUMBER

From: Kathy M Bell <kbell@cob.org>
Sent: Friday, July 25, 2025 1:36 PM
To: Kathy M Bell <kbell@cob.org>; Steven C Sundin <ssundin@cob.org>
Subject: NOTICE - MDNS The Woods at Viewcrest, 352 Viewcrest Road

Good afternoon.

You are receiving this email because you have provided public comment on The Woods at Viewcrest project. Today, July 25, 2025, the responsible SEPA official issued a Mitigated Determination of Nonsignificance (MDNS) for this proposal.

The MDNS is attached and available online at [Current Planning Notices](#). All supporting documents to the MDNS are available online at [The Woods at Viewcrest - City of Bellingham](#)



The Woods at Viewcrest - City of Bellingham

Project Status Consolidated Permit Process and SEPA Review On April 4, 2025, the City accepted the applicant's March 18, 2025, request to consolidate review of the Type I, II and III land use applications associated with the proposal pursuant to BMC 21.10.060. This means that the City's Hearing Examiner will issue decisions on all of the land use permit applications after holding a public ...

cob.org

Thank you for your interest in this process.

Kathy Bell | Senior Planner

Planning & Community Development Dept., City of Bellingham
360.778.8347 kbell@cob.org



The Bellingham Plan will help shape the city's future. Learn how you can take part!

[The Bellingham Plan | Engage Bellingham](#)

Note: My incoming/outgoing e-mail messages are subject to public disclosure requirements per RCW 42.56

RESOLUTION NO. 48-1986

A RESOLUTION RELATING TO SUBDIVISION CONTROL AND ACCEPTING THE FINAL PLAT OF BRIZA PURSUANT TO RCW 58.17 AND CHAPTER 18.20 OF THE BELLINGHAM CITY CODE.

WHEREAS, the City of Bellingham approved the Preliminary Plat of Briza by Resolution 41-1984 on June 21, 1984, and Resolution 26-1986 on June 23, 1986; and

WHEREAS, the Planning Department and the Public Works Department have reported that plat construction in conformance with the approved preliminary plat is complete, and

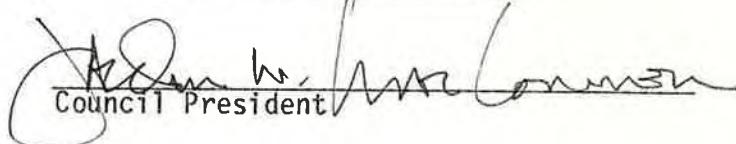
WHEREAS, the public use and interest will be served by the proposed plat, and

WHEREAS, the plat meets the requirements of pertinent state and local ordinances,

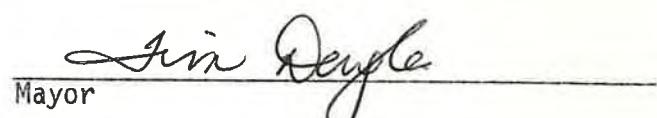
NOW, THEREFORE, BE IT RESOLVED BY THE BELLINGHAM CITY COUNCIL:

That the final plat known and described as "Briza" is hereby approved and ordered filed subject to final approval by City departments.

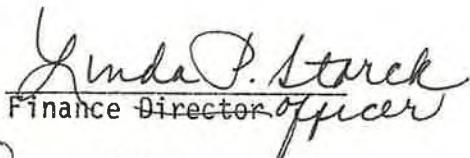
PASSED BY COUNCIL this 27th day of October, 1986


Council President

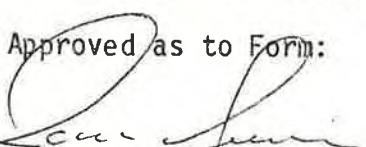
APPROVED BY ME this 3rd day of November, 1986.


Mayor

Attest:


Linda P. Starch
Finance Director Officer

Approved as to Form:


City Attorney
Office of the City Attorney

Robert S. Davidson

328 Viewcrest Road

Bellingham, Washington 98225

206 / 733-9573

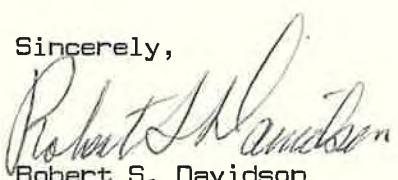
Dec 16, 1988

Bellingham Planning Department
City Hall
Bellingham, WA
98225

Dear Sirs:

Enclosed is a copy of a letter that has gone to the City Council and the other addressees. I am sure you will be contacted by them.

Sincerely,



Robert S. Davidson

12/9 Bill H-
draft response
related to issues
in attached.
B6

CITY OF BELLINGHAM
DEC 19 1988
PLANNING & ECONOMIC
DEVELOPMENT

Robert S. Davidson

328 Viewcrest Road

Bellingham, Washington 98225

206 / 733-9573

Dec. 16, 1988

City Council
City Hall
Bellingham, WA
98225

and

Trillium Corporation
Attn: Mr. David Syre
1307 Cornwall Ave
Bellingham, WA
98225

Dear Sirs:

It appears push has come to shove on the matter of protection for homeowners to preserve their view from developers.

I live above the Briza Development overlooking Chuckanut Bay, and on 16 June 1986, I petitioned the City Council to restrict the height and siteing of any houses to be built on lots 22; 23; and 24 of the Briza development.

At that time as well as now, we did not ask to prohibit houses from being built on these three lots. All we wanted then as well as now, is that our right to preserve our view be respected and not have houses built that will block it.

In 1986, after two sessions before the Council, you continued to waffle and would not reach a decision. Much to my disgust, the matter was left in limbo. This was done because Jean Gorton assured everyone that no building was to be done on these lots in the foreseeable future because no access road could be built to these lots from below due to the gradient. I quote " If they ever do become reachable and buildable, we would negotiate with the affected residents."

Now, two years later, lo and behold, the foreseeable future is here. An access road has been cut where Jean Gorton assured us none could be. (In violation of the EIS recommendations I might add) None of us have been contacted, but the lots are for sale by Foothills Realty and I understand lot 24 is to be short platted into two lots after the stream that drains Viecrest Road is filled. Even though filling this little ravine would be both environmentally and logically stupid. Naturally, Jean Gorton has neglected to contact us.

*Hager
SEPA
review
for short
plat?*

It is time for the City Council to make a move to address the rights of homeowners. Preservation of view is realized as a homeowners right in an ever increasing number of towns and cities. I certainly will do all I can to prevent the destruction of our view because the developer, (with his mother as front owner of the lots) apparently has little consideration for others. I am not trying to block the building of houses on these lots, just trying to force the developers to give us a measure of consideration and stop them from destroying our view of Chuckanut Bay.

When we came to Bellingham 26 years ago, we built a home on the Bayside Road lagoon because of the view. When our children left, the house was too large. After a search a realtor found this smaller house with an excellent view of Chuckanut Bay. We bought it fifteen years ago and have been remodeling it ever since to suit our retirement needs. Now, all this is threatened due to the inaction of the City Council as the developers and the realtors scramble for the influx of California and East Coast people fleeing their environmental disaster areas. Believe me when I say I will fight to preserve what is ours.

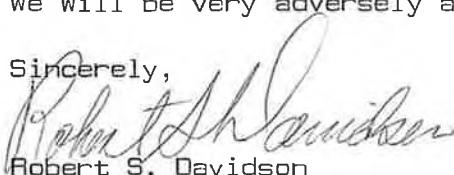
Therefore, I request the City Council take immediate action to direct The Planning and Building Permit Division to put a hold on all construction where blocking a view is a consideration. Then a reasonable ordinance can be passed. One that protects a home owner from developers and realtors instead of the inadequate and unrealistic so-called 'Height Restrictions' that now exist.

Surely you are aware as I am, that in recent years a tremendous change in attitude toward the rights of individuals has taken place. I am positive that if this situation on the above three lots is allowed to continue a competent attorney would be happy to bring suit for damages against the developers, the realtors and the city. I would like to suggest the City Council look up my June 18, 1986 letter to you.

I repeat, I am willing to sit down with the developers, realtor and council to work out a reasonable solution to the problem while the Council takes immediate action to correct this critical and unfair situation.

I will expect an answer in the very near future as to what action you will take and when this matter comes up for discussion. Incidentally, I speak for our neighbors as well as myself. We are concerned because we will be very adversely affected if this situation remains unresolved.

Sincerely,



Robert S. Davidson

Copies to:

Bellingham Planning Department
Mayor Douglas
Foothills Realty
Mrs. Deloras L. Syre



PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT

William T. Geyer, Director
(206) 676-6982

City Hall • 210 Lottie • Bellingham, Washington 98225

May 13, 1986

Ms. Jean Gorton
Vice President
Trillium Corporation
4183 Meridian Street
Bellingham, WA 98225

RE: Briza Subdivision - Final Plat Approval

Thank you for the submittal of materials for final plat approval of the Briza Subdivision. Because of the property exchange between the City and the Trillium Corporation, some design changes have been made since approval of the preliminary plat. After consulting with the City Attorney and in order to facilitate efficient processing of this subdivision, we have set the following schedule for review:

1. Planning Commission review of proposed street names. No public hearing required.
2. Public hearing before City Council to consider changes to the preliminary plat and original resolution.
3. After completion of onsite improvements, the Council can approve acceptance of the final plat.

The proposed street names are scheduled to be reviewed by the Planning Commission at the May 22, 1986 meeting. The Council hearing for proposed changes will be scheduled for June 9, 1986. The scheduling of acceptance of the final plat is dependent upon your time table for completion of the improvements. If you will forward an estimated date of completion to this office we will schedule a Council Review within about two weeks of this date.

A preliminary review of the final plat indicates a need for some changes. It would probably be most helpful if these changes were made prior to the City Council review of the original resolution. In this manner if there are any points of contention between the staff and your company, there would be a public forum available to air these differences.

We require the following changes on the face of the plat:

1. The two utility easements which extend south from Sea Crest Road to the marsh and beach area should also be designated as pedestrian access.

Letter to Ms. Jean Gorton
Page 2
May 13, 1986

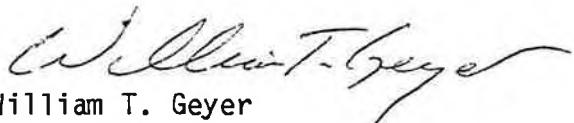
2. Property in City ownership located south of lots 52-58 should be included on the plat as a lot.
3. Sea Crest Court should be a publically dedicated right-of-way 50 feet in width with a 24 foot wide paved surface. The remaining property between Sea Crest Road and Court should be designated as private open space with the responsibility for maintainence resting with the property owners. A slope easement across this property shall be granted to the City.
4. References to "Engineer" should be changed to "City Engineer".
5. References to "City Treasurer" should be changed to "Finance Director".
6. References to the "Engineering Department" should be changed to the "Public Works Department".
7. A note on the face of the plat should indicate that lots 25-34 will require individual private sewer pumps.

The City Surveyor is still reviewing the legal description and may have additional comments.

Please remember that lots may be sold prior to filing of the Final Plat, however, all monies received must remain in escrow until the plat is finished and filed for record.

If you have any questions regarding the above procedures or comments, please contact Vickie Matheson of this office.

Sincerely,



William T. Geyer

William T. Geyer
Director

cc: William Hager
Tom Rosenberg
Ron Olson
Rob Neale
Ian Sievers
Vickie Matheson

Return to: Trillium Corp.

Rev. 5/15/86

1554602

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
OF THE PLAT OF "BRIZA"



A. RECITALS.

This Declaration is made with reference to the following facts and conditions:

1. The undersigned Declarant is the owner in fee simple of the following described real estate property in Whatcom County, Washington:

THE PLAT OF BRIZA, CITY OF BELLINGHAM, COUNTY OF WHATCOM,
STATE OF WASHINGTON.

2. Declarant intends to ensure that construction of single-family homes within this subdivision is in conformance with the requirements and restrictions of the June 18, 1984, City of Bellingham Resolution accepting the Preliminary Plat hereof; and

3. Declarant desires to provide the means to enforce the rights, reservations, easements, liens and charges provided in this Declaration, and for necessary maintenance and to provide for a community organization consisting of a non-profit community Association that includes as members those who purchase any lot, tract or parcel within this subdivision.

B. DECLARATION.

The Declarant hereby certifies and declares that the following conditions, covenants and restrictions shall endure and be binding upon the respective owners of each lot, and further declares that all of the property within the Plat of Chuckanut Bay described herein is held, and shall be held, conveyed, encumbered, leased, rented, used, occupied and improved subject to the following limitations, restrictions, conditions and covenants for the purpose of enhancing and protecting the value, desirability and attractiveness of the subdivision and every part thereof. All of the following limitations, restrictions, conditions and covenants shall run with the land and shall be binding on all parties having or acquiring any right, title or interest in the subdivision or any part thereof.

1. LAND CLASSIFICATION AND DEFINITIONS.

The following words and classifications of land shall have the following meanings under this agreement.

1.1 Lot: Any parcel of real property within the boundaries of the subdivision identified by Arabic numerals and designated for the location and construction of a single-family residence.

1.2 Owner: Any person, firm or corporation holding either fee title or a vendee's interest under a real estate contract as shown by the records of Whatcom County, Washington, to the exclusion of any lessor's interest.

1.3 Person: Any individual, firm, corporation, partnership, association, unincorporated association or organization, or political subdivision thereof.

1.4 Declarant: Declarant is The Trillium Corporation, its successors and any assigns engaged in land development and/or wholesale land sale activities in Whatcom County, Washington, or some portion thereof.

1.5 Common Properties: Real property owned by the Association or dedicated on the face of the Plat map for common use and enjoyment of the lot owners and members of the Association, including all roads, paths and walkways.

1.6 Annual Charge: The sum of (1) the yearly assessment against the assessable property; (2) the interest on any delinquent charges imposed; (3) the cost of any maintenance or repair work required to be performed by the owner but not so performed and performed instead by the Association; and (4) the cost of enforcing the lien imposed hereunder upon such assessable property.

1.7 Assessable Property: Each individual lot, together with any easement or common area which may be assessed for taxes by the City of Bellingham or its successor in interest.

1.8 Improvements: Improvements shall mean and include, without limitation, buildings, out-buildings, roads, driveways, parking areas, fencing, retaining walls, swimming pools, screening, walls, ornamentation, signs, stairs, decks, hedges, wind breaks, plantings, planted trees, shrubs, poles, lighting, hot tubs and all other structures or landscaping.

1.9 Resident: (1) each person lawfully residing on or in any part of the assessable property; and (2) members of the immediate family of each such person actually living in the same household with such person.

1.10 Board: The Board of Trustees, Board of Directors, or other governing body of the Association.

2. RESERVATIONS

2.1 Reservation of Easements: Easements for drainage, sewers, water pipes and utilities, facilities and service (including but not limited to water supply, electricity, gas, telephone, television) are hereby reserved over, under, upon, in and through all roadways and walkways, and over, under, upon and through certain portions of lots, tracts or parcels as shown on the Final Plat map of said Plat in which to install, lay, construct, repair, renew, operate, maintain and inspect underground pipes, sewers, conduits, cables, wires and all necessary facilities and equipment for the purpose of serving said Plat, together with the right to enter upon said easement areas, lots, tracts, parcels, roads and walkways for or pertaining to the aforesaid. This reservation of easement is for the benefit of Declarant and its successors in interest, the City of Bellingham, Puget Power, Cascade Gas, Northwest Bell, Nationwide Cablevision.

2.2 Reservation of Alley Serving Lots 5 through 21: The interior road or

alley serving Lots 5 through 21 of this Plat and accessing the main access road of this Plat east of Lot 5 shall be conveyed by the Declarant in trust to the Community Association and held by the Community Association for the benefit of Lots 5 through 21 as set forth below. The conveyance is to be made when the alley has been accepted as completed by the City of Bellingham Engineering Department and after the Association has come into existence. Upon conveyance of the alley to the Community Association, each of Lots 5 through 21 shall share equally in the cost of maintenance and repair of this alley. The Community Association hereinafter established shall be responsible for collecting assessments from these lots for this purpose.

2.3 Reservation of Alley for Serving Lots 1 through 4. The interior road or alley serving Lots 1 through 4 of this Plat and accessing the main access road of this Plat east of Lot 5 and between Lots 1 and 2 shall be conveyed by the Declarant in trust to the Community Association and held by the Community Association for the benefit of Lots 1 through 4 as set forth below. The conveyance is to be made when the alley has been accepted as completed by the City of Bellingham Engineering Department and after the Association has come into existence. Upon conveyance of the alley to the Community Association, each of lots 1 through 4 shall share equally in the cost of maintenance and repair of this alley. Further, Lots 1 through 4 shall jointly participate as one lot in the cost of maintenance and repair of the primary alley (Sea Crest Lane) as referenced in Section 2.2. above. The Community Association hereinafter established shall be responsible for collecting assessments from these lots for this purpose.

2.4 Reservation of Pedestrian Walkways. All pedestrian walkways shown on said Plat shall be improved to facilitate pedestrian access. Declarant agrees to convey these pedestrian walkways to the Association after improvements are completed and the Association comes into existence. Upon conveyance of such internal pedestrian easements leading to open space areas, the Community Association shall thereafter be responsible for the maintenance and upkeep of such internal pedestrian walkways.

2.5 Reservation of Common Open Space. All areas identified on the face of this Plat as common open space are hereby conveyed to the Community Association, and the Community Association shall be responsible for the maintenance and upkeep of the common open space. The Community Association shall assess each lot an equal portion for any maintenance and upkeep associated with the common open space area or areas, including, but not limited to, costs associated with brush control, trash removal and weed control.

2.6 Reservation of Drainage Easements and the Right to Drain. The Declarant hereby reserves the right to drain all roadways, walkways, easement ways and areas over and across any lot or lots, blocks, tracts and parcels where water might take a natural course after the grading thereof. The two drainage easements designated within this Plat and acting as biofilters between the storm drain outfalls and the marsh shall be maintained as meandering grass lined swales. These easements are conveyed to the Community Association, and the Community Association shall be responsible for the maintenance of the swales, including regular cleaning to remove sediments, and the replanting of grass and the placement of new rock as necessary to ensure effective operation.

2.7 Sales Office. The Declarant reserves the right to maintain a sales office on a lot to be designated by the Declarant within this Plat for the purpose of selling and re-selling lots within this Plat; provided, that the sales activity shall be limited to the sale or resale of lots within this Plat. Declarant reserves the right to place and maintain "for sale" signs on any lot within the said Plat as may be prepared and erected by the Declarant.

3. GENERAL USE RESTRICTIONS AND REQUIREMENTS.

3.1 All lots within the subdivision shall be used exclusively for permanent residential purposes.

3.2 All boats, utility trailers, trucks of more than one-ton capacity, campers, travel trailers, motorhomes and similar items or vehicles, shall not be operated, maintained or kept upon any lot or parking area, but shall at all times be enclosed in a garage or otherwise hidden from view; provided, that out-of-county guests of an owner may, with the owner's permission, park a recreational vehicle or travel trailer on the owner's lot and completely off the street for up to four (4) weeks.

3.3 No firearms, fireworks or explosives shall be discharged within the boundaries of the subdivision.

3.4 No animals, livestock or poultry of any kind shall be raised, bred or kept on any lot, except dogs, cats or other house-hold pets may be kept, provided they are not kept, bred or maintained for commercial purposes.

3.5 No signs or billboards shall be placed upon any lot except that one identification sign bearing the owner's name may be placed upon the owner's lot. Nevertheless, the Declarant may display post signs, billboards and other advertising materials in or about any unsold lots until all lots in the subdivision have been sold by Declarant, and Declarant may subsequently advertise the property for sale.

3.6 No lot owner shall deposit or permit the accumulation of any trash, ashes, garbage or other refuse or debris on or about the subdivision, but shall deposit same in covered trash receptacles.

3.7 No outside incinerators or other equipment for the disposal of rubbish, trash, garbage or other waste material shall be used within the subdivision, with the exception that covered compost heaps may be maintained according to conditions of 3.8.

3.8 Each lot owner shall keep his lot neat and orderly in appearance, and shall not cause or permit any noxious, odorous or tangible objects which are unsightly in appearance to exist on the premises.

3.9 All automobiles and all other permitted vehicles, if kept or parked on any lot, shall be in good order and working condition. Partially wrecked vehicles, discarded vehicles or vehicles which are in a state of disrepair shall not be kept on any lot, unless enclosed in a garage or otherwise completely hidden from view.

3.10 No television or radio antennas of any kind which extend more than ten (10) feet above the roofline of the residence shall be permitted on any lot or structure nor shall any satellite or "dish" antennas be permitted on any lot or structure.

3.11 Further subdivision of lots is hereby prohibited except (1) where lots of equivalent or larger size are created; or (2) if area is exchanged between adjoining lots without the creation of an additional lot.

3.12 Boundary line fences may be erected and maintained from the rear corner line of the main structure and extending toward the rear of the lot. No boundary line fences extending forward and toward the street from the rear corner line of the main structure shall be permitted except those composed of living materials only, such as hedges, shrubs or trees. Boundary line fences composed of "cyclone" type fencing materials, wire mesh or wire of any kind shall be prohibited. For lots accessed by alleys, front yard is defined as that part of the yard between Sea Crest Road and the nearest plane of the main structure.

3.13 In order that existing views from individual lots may be protected to the extent practicable, no trees or shrubs may be planted which are capable of attaining a height of thirty (30) feet or more upon maturity, unless planted to replace a similar tree or shrub which existed at the time of original conveyance of the lot on which the tree is placed.

4. CONSTRUCTION

4.1 Time for Completion. Construction of all buildings shall be prosecuted diligently from commencement of work until the exterior is completed and painted and all sanitation and health requirements have been fulfilled. The maximum time limit for the completion of the building shall be twelve (12) months from the date construction commences, which is defined as the date building materials are first delivered to the property. Construction shall not be deemed completed until the lawn (bark or ground cover) and shrubs have been properly seeded and the lot has been cleaned up, rendered free of debris and placed in reasonable condition.

4.2 Construction Requirements. All single-family home construction within this Plat is subject to the following provisions and restrictions, to be enforced by appropriate City agencies:

(a) All footing excavations must be inspected by a geotechnical engineer prior to pouring concrete to determine if adequate bearing has been achieved.

(b) Any cut and fill slopes exceeding 2 (horizontal):1 (vertical) must be evaluated for stability by a geotechnical engineer.

(c) Neighbors must be notified when blasting is to occur, and blasting shall be restricted to daylight hours.

(d) Individual fire sprinkler systems may be required by the fire marshall.

(e) Provisions shall be made at each construction site to control erosion, such as temporary settling basins, straw bales, seeding, mulching steep slopes and shielding excavations through the use of material such as visquine.

(f) Lots 35 through 41 shall have a 50 foot building set back from the rear property line adjacent to the marsh. This area shall be maintained with vegetative materials and no filling or grading shall occur.

4.3 Height Restrictions. Height of structures erected on lots shall be restricted as follows or pursuant to the terms of any applicable City ordinance provision in effect at the time of application for a building permit, whichever is more stringent.

(a) No structure shall exceed thirty five (35) feet under height definition #1 or twenty (20) feet under height definition #2.

Definition #1: The verticle distance from the average finished grade to the average height of the highest gable of a pitch or hip roof;

Definition #2: The verticle distance measured from the highest point on the building site to the average elevation of the highest gable of a pitch or hip roof.

5. DESIGN REVIEW COMMITTEE.

5.1 General. Design review and control shall be accomplished by a Design Review Committee, which shall be composed of one owner's representative, one architect, one engineer, and two lot owners, and/or such person as they or the Declaration shall designate in writing. Fees for participation by the designated architect and engineer shall be paid by the lot owners submitting plans for review. No fees shall be charged by the Declarant or other lot owners. No building shall be erected, placed or altered on any lot until the construction plans, specifications and plans showing the location of the structure have been approved by the Committee as to the quality of materials, harmony of external design with existing structures, and location with respect to topography and finished grade elevation.

5.2 Approval/Disapproval. The Committee shall approve or disapprove plans, specifications, and details, including specified color finish, within fifteen (15) days following receipt. Plans, specifications and details which are not approved or disapproved within fifteen (15) days shall be deemed approved as submitted. Two (2) sets of plans, specifications, and details, including exterior color finish must be submitted. One (1) such set shall be returned to the person submitting them with the approval or disapproval endorsed on them. The other copy shall be retained by the Committee for its permanent files.

The Committee shall have the right to disapprove any plans, specifications or details in the event the same are not in accordance with all the provisions of this Declaration, if the design or color scheme of the proposed building or other structure is not in harmony with the general surroundings of such lots

or with the adjacent buildings or structures, if the plans and specifications are incomplete, or in the event the Committee decides that the plans, specifications, details or any part of them are contrary to the interest, welfare or rights of any owner or owners. The decisions of the Committee shall be final.

5.3 Conditional Approval. Any approval by the Committee may be conditioned upon compliance by the applicant with any reasonable condition which it deems appropriate, including, but not limited to, the posting of bonds or other acceptable security to secure performance by the applicant in accordance with the plans and specifications being approved.

5.4 No Liability. Neither the Committee or any person who succeeds it shall be liable to any party for any action or for any failure to act under or pursuant to the provisions of this Declaration, provided, that the Committee or its successor proceeds in good faith and without malice.

5.5 Expiration. Neither the Committee nor any members appointed to it shall have any responsibility with regard to these covenants after five (5) years from the date hereof or when Declarant no longer owns any of the lots in the subdivision, whichever occurs later. If a Community Association composed of the owners of not less than sixty percent (60%) of the lots is then or thereafter in existence, it may appoint, in accordance with its By-Laws, successors to the members of the Committee, who shall thereafter exercise its powers. The By-Laws may provide for resolutions of disputes through arbitration.

6. COMMUNITY ASSOCIATION.

The Declarant shall form a community organization to include as members all purchasers of any lot within this Plat. This organization shall be a non-profit corporation under Title 24 of the Revised Code of Washington, and shall be known as "Briza Community Association".

6.1 Purpose. Among the objectives and purposes of the Community Association shall be the furtherance and promotion of the common welfare of the purchasers of any lot, tract or parcel; the regulation, use, care, construction, operation, repair and maintenance and preservation of walkways, common areas and easements in this plat for which there is a private maintenance obligation to be shared in common by Association members according to the terms hereof; and the regulation, maintenance and repair of facilities thereon and such other facilities, equipment, activities, objects and purposes pertaining to the welfare, enjoyment, social well-being and protection and benefit of the members and their property in this plat, including but not limited to the operation and maintenance of and use of property held or controlled by the Community Association; payment of taxes on common areas and improvements; the furnishing of protection, drainage, and the like for the common good.

6.2 Creation and Transfer of Control. The Community Association shall be organized at the instance of the Declarant, and each purchaser of a lot shall be a member in the Community Association. The Declarant shall designate and appoint a Board of Trustees of the Community Association until such time as the Declarant has sold one hundred percent (100%) of the lots in this plat.

When one hundred percent (100%) of the lots in this plat have been sold, the control of the Community Association shall be turned over to the members, and the members may elect from its number at large as provided in the Articles of Incorporation and By-Laws the Board of Trustees. The Declarant, at its option, may at any time sooner turn over control of the Community Association.

6.3 Conveyances. The Declarant shall transfer and convey by deed all common areas, alleys, paths and walkways to the Community Association subject to the reservations impressed upon these properties by this Declaration. This conveyance shall be made after the Association has been created and improvements have been completed. At such time as the Declarant conveys the common open space, drainage systems, alleys, paths and walkways to the Community Association, the Community Association shall thereafter be responsible for the maintenance and upkeep of the alleys, drainage systems, paths, walkways and other common areas. In like manner, the Community Association shall be responsible for maintaining all of the storm drainage system within the Plat.

6.4 Assessments and Liens.

(a) **Authority.** The Community Association shall be empowered to establish and collect dues and assessments upon lots in this plat for the common benefit of such lots.

(b) **Objects.** The objects for which dues and assessments may be made and collected include utilities, roadways, drainage, property protection, landscaping, insurance, improvements, payment of taxes upon common property, the holding of ownership or a lease-hold interest therein or for any other common purposes, all as determined pursuant to the Articles and By-Laws of the Community Association.

(c) **Personal Obligation and Lien Foreclosure.** Such assessments shall constitute a personal obligation of any lot owner of record on the due date thereof, and shall also constitute a lien on the lot assessed. Such lien may be foreclosed by the Community Association in the same form and manner of procedure as the foreclosure of real property mortgage liens under the laws of the State of Washington.

(d) **Amounts Included.** Each owner and each party hereinafter owning or claiming an interest in one or more lots agrees that in the event of such a foreclosure action, the owner or party will pay the Association's expenses of title examination and insurance, the cost of attorney's fees incurred by the Community Association, and court costs. Interest at twelve percent (12%) per annum shall be included along with the amount of delinquent assessment in the judgment of foreclosure of such lien.

(e) **Manner of Assessment.** Assessments shall be assessed and collected on a fair and uniform basis as among lots, tracts, or parcels subject thereto, by the By-Laws of the Community Association between improved lots and unimproved lots.

(f) **Other Liens and Foreclosure Actions.** The method and manner provided for foreclosure of liens in this paragraph shall pertain to all liens referred to in these covenants. First mortgage liens placed upon any of said

lots for the purpose of constructing a residence or other liens provided for by the laws of the State of Washington, shall be, from the date of recordation of such, superior to any and all charges, assessments and liens imposed pursuant to this Declaration.

6.5 Establishment and Assessment of Charges. For the purpose of providing funds for uses specified herein, the Board shall for each year, commencing with the calendar year 1987, fix and assess a yearly assessment against the assessable property. The assessment shall be equal to a certain number of dollars and cents per individual lot recorded on the final plat, except that any unsold lot in the Declarant's initial inventory of lots shall not be assessed the annual assessment for a period of four (4) calendar years beginning January 1, 1987, or until the individual lot is sold.

6.6 Annual Statement. As soon as shall be practicable in each year, the Association shall send a written statement to each owner providing the number of dollars and cents assessed by the Board as the yearly assessment for the year in question, stated in terms of the total sum due and owing as the annual charge. The Association may, however, in its sole discretion determine to bill the annual charge in monthly installments, with or without a service charge as the Association may determine.

6.7 Penalty on Delinquent Assessment. If an owner shall fail to pay any installment of the annual charge within thirty (30) days from the date of issuance of the statement therefor, the same shall be deemed delinquent and will bear a penalty to be determined by the Community Association.

6.8 Delinquency for More than Ninety (90) Days. If the owner of any assessable lot shall fail to pay the annual charge or any installment therefor within ninety (90) days following the date of issuance of the statement therefor, the Association shall have the right to sue such owner for a personal judgment and, in addition, shall have the right to enforce the lien, hereinafter imposed. The amount due by such owner shall include the unpaid annual charge or installment thereof as well as the cost of such proceedings, including reasonable attorneys' fees, and the aforesaid penalty.

6.9 Rules and Procedures for Billing and Collecting Assessments. The Board shall have power and authority to adopt rules and procedures respecting the billing and collection of the annual charges, which shall be binding on all the owners.

6.10 Increase in Assessments. The amount of the assessment against each lot shall be initially determined and may thereafter be increased or decreased for any period of one (1) year or more, by the affirmative vote of at least fifty one percent (51%) of the voting members of the Association, represented in person or by proxy and entitled to vote, at a meeting, annual or special, called for such purpose.

6.11 Application of Assessment. The Association shall apply all funds received by it pursuant to these restrictions in the order stated:

(a) Administrative costs and expenses incurred by the Association in the exercise of its powers, authority and duties described in these Articles;

(b) The promotion of the recreation, health, safety, enjoyment and welfare of the users of the common property, and the enhancement of the values of the property by means of construction, repair, maintenance, operation and administration of the common property, including, but not limited to, the payment of taxes and insurance premiums on the common property.

(c) The service, repair, maintenance or replacement of any and all improvements, but not limited to fences, roads, pathways, drainage and lighting belonging to the Association.

6.12 Authority to Maintain Surplus. The Association shall not be obligated to spend in any particular time period all the sums collected or received by it in such time period or any other time period. The Association may carry forward, as surplus, any balances remaining. The Association shall not be obligated to apply any such surpluses to the reduction of the amount of the annual charge in any year.

7. PROTECTION OF MORTGAGE OR DEED OF TRUST HOLDER.

No violation or breach of any restriction, covenants or condition contained in this Declaration or any supplemental Declaration, and not action to enforce the same shall defeat, render invalid or impair the lien of any mortgage or deed of trust taken in good faith and for value of the title or interest of the holder thereof or the title acquired by any purchaser upon foreclosure of any such mortgage or deed of trust. Any such purchaser shall, however, take subject of this Declaration and any supplemental Declaration, except only that violations or breaches which occurred prior to such foreclosure shall not be deemed breaches or violations hereof.

8. ENFORCEMENT

All disputes concerning compliance with use standards or concerning the terms of this Declaration may be decided by arbitration. Once a party appoints an arbitrator, he or she shall be deemed to have irrevocably submitted to arbitration and to have irrevocably agreed to be bound by the decision reached by the arbitration panel. The party seeking enforcement or interpretation of this Declaration shall appoint one (1) arbitrator. The other party shall appoint a second arbitrator and the two so selected shall appoint a third. In the event the two arbitrators initially appointed are unable to select a third arbitrator within (3) weeks following their appointment, such arbitrator shall be appointed by the presiding Judge of the Whatcom County Superior Court. All arbitrators appointed shall be attorneys engaged in the private practice of law. The arbitrators so appointed shall take such testimony on the question before them as they shall deem appropriate and their decision shall be binding upon all parties and on the Association. The arbitration shall be accomplished in accordance with the applicable rules of the American Arbitration Association. All decisions of the panel shall be by majority vote. The cost and expenses of arbitration shall be borne equally by the parties.

In the event that either party refuses to submit to arbitration, the Association, the Declarant and each lot purchaser shall have the right to enforce, by any proceedings at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by this Declaration. Failure of the Association, the Declarant or any lot owner or contract purchaser to enforce any covenant or restriction in this Declaration shall not be deemed a waiver of the right to do so thereafter. The prevailing parties in any litigation involving the enforcement of these covenants shall be awarded a reasonable attorney's fee and court costs.

9. GRANTEE'S ACCEPTANCE.

The grantee of any lot subject to the coverage of these Declarations by acceptance of a deed conveying title thereof, or the execution of a contract for the purchase thereof, whether from Declarant or a subsequent owner of such lot, shall accept such deed or contract upon and subject to each and all of these Declarations and the agreements herein contained, and also the jurisdiction, rights and powers of Declarant, and by such acceptance, shall for himself, his heirs, personal representative, successors and assigns, covenant, consent and agree to and with Declarant, and to and with the grantees and subsequent owners of each of the lots within the subdivision, to keep, observe, comply with and perform said Declarations and agreements.

Each such grantee also agrees, by such acceptance, to assume, as against Declarant, its successors or assigns, all the risks and hazards of ownership and occupancy attendant to such lot, including but not limited to its proximity to any parks, children's recreational facilities, public paths, streams or other water courses.

10. AMENDMENT TO DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS.

The covenants and restrictions of this Declaration shall run with and bind with the land and shall inure to the benefit of and be enforced by the Association, the Declarant, the owners or contract purchasers of any lots subject to any Declaration, their respective legal representatives, heirs, successors and assigns for a period of thirty (30) days from the date of this Declaration as recorded, after which time said covenants shall be automatically extended for successive periods of ten (10) years, unless an instrument terminating these covenants is signed by not less than seventy five percent (75%) of the property owners or contract purchasers, which instrument shall then be filed for record with the Whatcom County Auditor's office. These covenants and restrictions may be amended by an instrument signed by not less than the owners or contract purchasers, including the Declarant during the first ten year period, then owning seventy-five percent (75%) of the property subject to this Declaration; provided, Article 4.2 and 4.4 may not be altered or amended as provided herein without the express written consent of the City of Bellingham. An amendment shall take effect upon approval as provided herein and when it has been recorded with the Whatcom County Auditor's Office.

11. SEVERABILITY.

In the event that any of these covenants, conditions and restrictions is

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determined by judgment or court order to be invalid, the remaining portion or portions of this Declaration shall in no way be affected.

12. PARAGRAPH HEADINGS.

The paragraph headings in this instrument are for convenience only and shall not be considered in construing this Declaration.

13. NO WAIVER.

Failure to enforce any restriction, covenant or condition in this Declaration or any supplemental Declaration shall not operate as a waiver of any such restriction, covenant or condition or of any other restriction, covenant or condition.

DATED this 16 day of September, 1986.

TRILLIUM CORPORATION
a Washington corporation

By David R. Syre
David R. Syre
Its President

By Sheryl J. Case
Its Secretary

Nov 3 10:48 AM '86
VOL 251 PAGE 1464
REQUEST OF SHERYL J. CASE
JOAN GIGER, AUDITOR
WHATCOM COUNTY, WASH.
DEPUTY

RECORDED

STATE OF WASHINGTON)
) ss.
COUNTY OF WHATCOM)

On this 16 day of September, 1986, before me, the undersigned, a Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared David R. Syre and Sheryl J. Case to me known to be the President and Secretary, respectively, of TRILLIUM CORPORATION, a Washington corporation, 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 they are authorized to execute the said instrument.

WITNESS my hand and official seal, the day and year first above written

Donald L. May
Notary Public in and for the State of Washington, residing in Bellingham





PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT

William T. Geyer, Director
(206) 676-6982

City Hall • 210 Lottie Street • Bellingham, Washington 98225

M E M O R A N D U M

TO: Linda Storck
FROM: Vickie Matheson *VM*
RE: Briza Subdivision
DATE: November 17, 1986

The Trillium Corporation has completed their landscaping obligation for the Briza Subdivision. The funds on deposit with the City can now be released. Thank you.

VM/dd

DEPOSIT OF FUNDS IN LIEU OF BOND

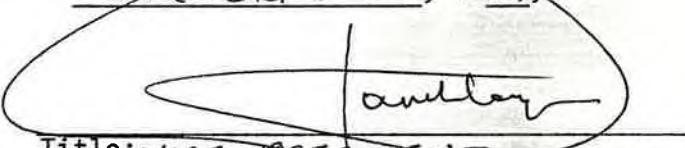
THIS ASSIGNMENT is for ensuring completion and guarantee of the Depositor's installation of street trees for the Briza Subdivision.

The undersigned, TRILLIUM CORPORATION, does hereby deposit with the City of Bellingham funds in the amount of \$30,000.00, deposited in City Trust Guaranty Deposit Account. The City is hereby authorized to draw upon the funds in case of the failure of Depositor to install street trees by May 1, 1987 in the Briza Subdivision, as required by Resolution No. 26-1986.

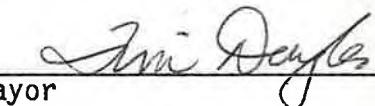
The City is authorized, in case of happening of any of the described events, to draw upon the account to complete the project, to correct any defects discovered, to pay required costs and fees, or do any other thing required to bring the project to timely and proper completion.

If the City draws down part but not all of the funds pursuant to this Deposit Agreement, any residual funds shall be released to the depositor.

EXECUTED, this the 24 day of OCTOBER, 1986 for the Depositor, TRILLIUM CORPORATION:

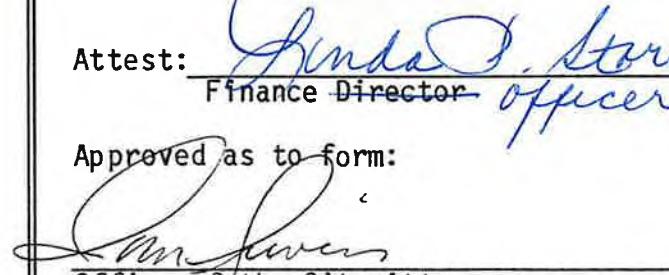

Title: VICE PRESIDENT

APPROVED, this the 28th day of October, 1986, for the CITY OF BELLINGHAM:

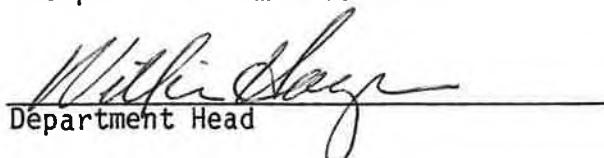

Mayor

Attest: Linda J. Storch
Finance Director officer

Approved as to form:


Office of the City Attorney

Accepted for Administration:


Department Head

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

BOB CLARK LANDSCAPING
1898 YEW STREET ROAD
BELLINGHAM, WASHINGTON 98226

TRILLIUM - BRIZA
BREAKDOWN BY SECTION

LANDSCAPE DOWN TO END OF GUARD RAIL	\$11,460
SIGN	24,200
IRRIGATION COMPLETE	6,505
FILL BY SIGN APPROX. 300 CU. YD. @ 7.50 IN PLACE	2,250
ELECTRICAL HOOK UP AT PEDISTAL	2,026
ALT. ELECTRICAL FOR SIGN	2,586
BALANCE OF PLANTING ALONG ROADWAYS	4,602
PLANTING ALONG PATH SECTION	3,805
STAIR CASES PER SECTION	655.32
CRUSHED ROCK PATH INCLUDING BRUSH REMOVAL	4.00/FT.

BOB CLARK LANDSCAPING
1898 YEW STREET ROAD
BELLINGHAM, WASHINGTON 98226

TRILLIUM CORPORATION - BRIZA JOB: As per plans and specs to the end of guard rails.

Landscape Phase I

Included irrigation and complete electrical pedestal panel. Also stone entry sign.

- Basic Bid Phase I	\$44,191.00
- Alt. Electrical for Flood Lites @ Sign	2,568.00
- Fill to finish grade at main sign area approximately 300-cu. yds. in place \$7.50 cu. yd	2,250.00
(Owner will determine how far to go)	

Landscape Phase II

- Install trees as per plans	4,602.00
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Landscape Phase III

- Plant material for path	3,805.00
- Wood stair sections approx. 30 @ \$655.32	19,659.60
- Balance of path in crushed rock approx. 300 ft. @ 4.00/ft.	1,200.00
(Owner will decide footage and amount of stairs.)	

These items are bid by unit and by footage. If more or less are required, price will be added or deducted by said amounts above.

10/23/86
Date


Robert Clark

BOB CLARK LANDSCAPING
1898 YEW STREET ROAD
BELLINGHAM, WASHINGTON 98226

BRIZA
PLANTING COST TOTAL

LANDSCAPE DOWN TO END OF GUARD RAIL	\$11,460
BALANCE OF PLANTING ALONG ROADWAYS	4,602
PLANTING ALONG PATH SECTION	<u>3,805</u>
TOTAL	<u>\$ 19,867</u>

\$19,867 X 150% = \$29,800

BOB CLARK LANDSCAPING
1898 YEW ST. ROAD
BELLINGHAM, WA 98226
5067600790

DEWINDS NURSERY
3410 N.W. AVE.
BELLINGHAM, WA. 98225

PROPOSAL and CONTRACT

Date SEPT 28, 19 86

TO TRILLIUM CORP
BRIZA JOB

Dear Sir:

WE propose to furnish all materials and perform all labor necessary to complete the following:

PHASE I, II, III AS PER ATTACHED. DOES NOT INCLUDE SALES TAX.

~~* THIS SYMBOL IS ATTACHED ON BACK, AND DESCRIBES ITS MEANING~~

All of the above work to be completed in a substantial and workmanlike manner according to standard practices for the sum of AS PER QUOTE ON ATTACHED Dollars (\$ 78,293.60)

Payments to be made TENTH OF MONTH FOLLOWING STATEMENT.

as the work progresses to the value of _____ per cent (____%) of all work completed. The entire amount of contract to be paid within _____ days after completion.

Any alteration or deviation from the above specifications involving extra cost of material or labor will only be executed upon written orders for same, and will become an extra charge over the sum mentioned in this contract. All agreements must be made in writing.

Respectfully submitted,

By

ACCEPTANCE

Larry E. Rudy

You are hereby authorized to furnish all materials and labor required to complete the work mentioned in the above proposal, for which TRILLIUM agrees to pay the amount mentioned in said proposal, and according to the terms thereof. TRILLIUM RESERVES THE RIGHT TO BUILD PORTIONS OF THIS PROJECT PER ATTACHED BREAKDOWN. TRILLIUM WILL PAY FOR THE BOND FEE.

ACCEPTED
Janet L. Clark
Date 10/23, 19 86

BELLINGHAM CITY COUNCIL AGENDA BILL

<u>1 SUBJECT</u>	<u>FOR AGENDA OF</u>	<u>COUNCIL ASSIGNMENT</u>	<u>BILL NUMBER</u>
3 Briza Subdivision Final Plat	10/27/86	PLANNING COMMITTEE INTRODUCTION OF RESOLUTION	807579
5			RECEIVED IN CITY COUNCIL OFFICE
7			OCT 22 1986
9			
<u>11 ATTACHMENTS</u>	<u>CLEARANCES:</u>		<u>INITIAL</u>
12 Resolution	William Geyer, PEDD, Director		WTB 10/22/86
14	William Hager, Planning Manager		AH 10/22/86
15	Vickie Matheson, Development Planner		VM 10/22/86
17			
18			
<u>20 PUBLIC HEARING REQUIRED?</u>	<u>NO</u>	<u>MAYOR</u>	
<u>21 SUMMARY STATEMENT</u>	PAGE 1 OF 1		
Acceptance of Final Plat for the Briza Subdivision.			
<u>36 RECOMMENDED ACTION</u>			
Acceptance			
<u>44 COMMITTEE RECOMMENDATION/ACTION</u>			
10/27/86: TJ/AH MOVED APPROVAL OF THE FINAL PLAT.			
<u>53 COUNCIL ACTION</u>			
10/27/86 AH/TJ APPROVED - R48-1986			
60			



PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT

William T. Geyer, Director
(206) 676-6982

City Hall • 210 Lottie • Bellingham, Washington 98225

October 21, 1986

Jean Gorton
Trillium Corporation
4183 Meridian Street
Bellingham, WA 98226

Dear Jean:

We are tentatively scheduling the Final Plat of Briza Subdivision for the City Council Agenda on October 27, 1986. There are a few outstanding items to take care of before it can be considered by Council:

1. The mylar needs to be signed by Safeco as well as Trillium and BNB.
2. The mylar should be changed to read Planning and Economic Development Approval and the Director thereof.
3. Two additional notes need to be added:
"7. Construction Requirements as specified in Resolution 26-1986 adopted June 23, 1986, by the City of Bellingham."
"8. Lots 35-41 shall have a 50-foot building setback from the rear property line adjacent to the marsh. This area shall be maintained with vegetative materials and no filling or grading shall occur."
4. A bond guaranteeing installation of 150% of the cost of street trees needs to be posted.

If the above referenced information is received in this office no later than noon Friday, October 17, 1986, the subdivision will remain on the Council agenda. If this deadline is not met, we will have to ask to have the item withdrawn from the agenda. Please let us know if we can be of any assistance.

Sincerely,

A handwritten signature in black ink that reads "William E. Hager".

William E. Hager
Planning Manager

WEH/VM/rw

Whatcom Land Title Company, Inc.

110 Grand Avenue, P.O. Box 516
Bellingham, Washington 98227
Phone (206) 676-8484 County (206) 384-5095

CITY OF BELLINGHAM

OCT 22 1986

PLANNING & ECONOMIC
DEVELOPMENT

October 20, 1986

City of Bellingham
Planning Department
Bellingham, WA 98225

Attn: Mr. Bill Geyer

RE: Proposed Plat of Briza
Our Plat Certificate W-7449
Dated: April 8, 1986 at 8:00 a.m.

Dear Mr. Geyer:

Please be advised that there has been a change in the ownership and/or underlying encumbrances since September 18, 1986, the date of our updated Certificate, as follows:

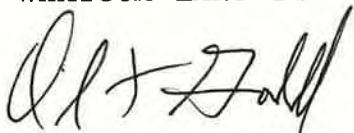
1. Deed of Trust, to secure an indebtedness, including any interest, advances, or other obligations secured thereby, in the principal amount of \$1,260,000.00;

Dated:	September 23, 1986
Recorded:	September 26, 1986
Recording No.:	1550388
Grantor:	THE TRILLIUM CORPORATION, a Washington Corporation
Trustee:	SAFECO TITLE INSURANCE COMPANY
Beneficiary:	BELLINGHAM NATIONAL BANK

Please do not hesitate to contact me if you have any questions or concerns.

Very truly yours,

WHATCOM LAND TITLE COMPANY, INC.


DAVID F. GODDARD

DFG/jde

cc: Trillium Corporation

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DEED OF TRUST

THIS DEED OF TRUST ("Security Instrument") is made on September 23, 1986. The grantor is THE TRILLIUM CORPORATION, A WASHINGTON CORPORATION ("Borrower"). The trustee is Sureco Title Insurance Co. XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX ("Trustee"). The beneficiary is BELLINGHAM NATIONAL BANK XXXXXXXXXXXXXXXXXXXXXXXXXXXX, which is organized and existing under the laws of the United States, and whose address is 101 E. Holly, Real Estate Center, Bellingham, WA 98225 ("Lender").
Borrower owes Lender the principal sum of ONE MILLION TWO HUNDRED SIXTY THOUSAND DOLLARS AND NO/100'S Dollars (\$ 1,260,000.00). This debt is evidenced by Borrower's note dated the same date as this Security Instrument ("Note"), which provides for monthly payments, with the full debt, if not paid earlier, due and payable on September 30, 1987. This Security Instrument secures to Lender: (a) the repayment of the debt evidenced by the Note, with interest, and all renewals, extensions and modifications; (b) the payment of all other sums, with interest, advanced under paragraph 7 to protect the security of this Security Instrument; and (c) the performance of Borrower's covenants and agreements under this Security Instrument and the Note. For this purpose, Borrower irrevocably grants and conveys to Trustee, in trust, with power of sale, the following described property located in Whatcom County, Washington.

SEE ATTACHED "EXHIBIT A" FOR LEGAL DESCRIPTION

which has the address of BRIZA, 98225, Bellingham,
Washington 98225 XXXXXX ("Property Address").

TOGETHER WITH all the improvements now or hereafter erected on the property, and all easements, rights, appurtenances, rents, royalties, mineral, oil and gas rights and profits, water rights and stock and all fixtures now or hereafter a part of the property. All encumbrances and additions shall also be covered by this Security Instrument. All of the foregoing is referred to in this Security Instrument as the "Property".

Borrower covenants that Borrower is lawfully seized of the estate hereby conveyed and has the right to grant and convey the Property and that the Property is unencumbered, except for encumbrances of record. Borrower warrants and will defend generally the title to the Property against all claims and demands, subject to any encumbrances of record.

THE SECURITY INSTRUMENT combines uniform covenants for national use and non-uniform covenants with limited variations by jurisdiction to constitute a uniform security instrument covering real property.

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UNIFORM COVENANTS. Borrower and Lender covenant and agree as follows:

1. **Payment of Principal and Interest; Prepayment and Late Charges.** Borrower shall promptly pay when due the principal of and interest on the debt evidenced by the Note and any prepayment and late charges due under the Note.

2. **Funds for Taxes and Insurance.** Subject to applicable law or to a written waiver by Lender, Borrower shall pay to Lender on the day monthly payments are due under the Note, until the Note is paid in full, a sum ("Funds") equal to one-twelfth of: (a) yearly taxes and assessments which may attain priority over this Security Instrument; (b) yearly leasehold payments or ground rents on the Property, if any; (c) yearly hazard insurance premiums; and (d) yearly mortgage insurance premiums, if any. These items are called "escrow items." Lender may estimate the Funds due on the basis of current data and reasonable estimates of future escrow items.

The Funds shall be held in an institution the deposits or accounts of which are insured or guaranteed by a federal or state agency (including Lender if Lender is such an institution). Lender shall apply the Funds to pay the escrow items. Lender may not charge for holding and applying the Funds, analyzing the account or verifying the escrow items, unless Lender pays Borrower interest on the Funds and applicable law permits Lender to make such a charge. Borrower and Lender may agree in writing that interest shall be paid on the Funds. Unless an agreement is made or applicable law requires interest to be paid, Lender shall not be required to pay Borrower any interest or earnings on the Funds. Lender shall give to Borrower, without charge, an annual accounting of the Funds showing credits and debits to the Funds and the purpose for which each debit to the Funds was made. The Funds are pledged as additional security for the sums secured by this Security Instrument.

If the amount of the Funds held by Lender, together with the future monthly payments of Funds payable prior to the due dates of the escrow items, shall exceed the amount required to pay the escrow items when due, the excess shall be, at Borrower's option, either promptly repaid to Borrower or credited to Borrower on monthly payments of Funds. If the amount of the Funds held by Lender is not sufficient to pay the escrow items when due, Borrower shall pay to Lender any amount necessary to make up the deficiency in one or more payments as required by Lender.

Upon payment in full of all sums secured by this Security Instrument, Lender shall promptly refund to Borrower any Funds held by Lender. If under paragraph 19 the Property is sold or acquired by Lender, Lender shall apply, no later than immediately prior to the sale of the Property or its acquisition by Lender, any Funds held by Lender at the time of application as a credit against the sums secured by this Security Instrument.

3. **Application of Payments.** Unless applicable law provides otherwise, all payments received by Lender under paragraphs 1 and 2 shall be applied: first, to late charges due under the Note; second, to prepayment charges due under the Note; third, to amounts payable under paragraph 2, fourth, to interest due, and last, to principal due.

4. **Charges; Liens.** Borrower shall pay all taxes, assessments, charges, fines and impositions attributable to the Property, which may attain priority over this Security Instrument, and leasehold payments or ground rents, if any. Borrower shall pay these obligations in the manner provided in paragraph 2, or if not paid in that manner, Borrower shall pay them on time directly to the person owed payment. Borrower shall promptly furnish to Lender all notices of amounts to be paid under this paragraph. If Borrower makes these payments directly, Borrower shall promptly furnish to Lender receipts evidencing the payments.

Borrower shall promptly discharge any lien which has priority over this Security Instrument unless Borrower: (a) agrees in writing to the payment of the obligation secured by the lien in a manner acceptable to Lender, (b) contests in good faith the lien by, or defends against enforcement of the lien in, legal proceedings which in the Lender's opinion operate to prevent the enforcement of the lien or forfeiture of any part of the Property, or (c) secures from the holder of the lien an agreement satisfactory to Lender subordinating the lien to this Security Instrument. If Lender determines that any part of the Property is subject to a lien which may attain priority over this Security Instrument, Lender may give Borrower a notice identifying the lien. Borrower shall satisfy the lien or take one or more of the actions set forth above within 10 days of the giving of notice.

5. **Hazard Insurance.** Borrower shall keep the improvements now existing or hereafter erected on the Property insured against loss by fire, hazards included within the term "extended coverage" and any other hazards for which Lender requires insurance. This insurance shall be maintained in the amounts and for the periods that Lender requires. The insurance carrier providing the insurance shall be chosen by Borrower subject to Lender's approval which shall not be unreasonably withheld.

All insurance policies and renewals shall be acceptable to Lender and shall include a standard mortgage clause. Lender shall have the right to hold the policies and renewals. If Lender requires, Borrower shall promptly give to Lender all receipts of paid premiums and renewal notices. In the event of loss, Borrower shall give prompt notice to the insurance carrier and Lender. Lender may make proof of loss if not made promptly by Borrower.

Unless Lender and Borrower otherwise agree in writing, insurance proceeds shall be applied to restoration or repair of the Property damaged, if the restoration or repair is economically feasible and Lender's security is not lessened. If the restoration or repair is not economically feasible or Lender's security would be lessened, the insurance proceeds shall be applied to the sums secured by this Security Instrument, whether or not then due, with any excess paid to Borrower. If Borrower abandons the Property, or does not answer within 30 days a notice from Lender that the insurance carrier has offered to settle a claim, then Lender may collect the insurance proceeds. Lender may use the proceeds to repair or restore the Property or to pay sums secured by this Security Instrument, whether or not then due. The 30-day period will begin when the notice is given.

Unless Lender and Borrower otherwise agree in writing, any application of proceeds to principal shall not extend or postpone the due date of the monthly payments referred to in paragraphs 1 and 2 or change the amount of the payments. If under paragraph 19 the Property is acquired by Lender, Borrower's right to any insurance policies and proceeds resulting from damage to the Property prior to the acquisition shall pass to Lender to the extent of the sums secured by this Security Instrument immediately prior to the acquisition.

6. **Preservation and Maintenance of Property; Leaseholds.** Borrower shall not destroy, damage or substantially change the Property, allow the Property to deteriorate or commit waste. If this Security Instrument is on a leasehold, Borrower shall comply with the provisions of the lease, and if Borrower acquires fee title to the Property, the leasehold and fee title shall not merge unless Lender agrees to the merger in writing.

7. **Protection of Lender's Rights in the Property; Mortgage Insurance.** If Borrower fails to perform the covenants and agreements contained in this Security Instrument, or there is a legal proceeding that may significantly affect Lender's rights in the Property (such as a proceeding in bankruptcy, probate, for condemnation or to enforce laws or regulations), then Lender may do and pay for whatever is necessary to protect the value of the Property and Lender's rights in the Property. Lender's actions may include paying any sums secured by a lien which has priority over this Security Instrument, appearing in court, paying reasonable attorneys' fees and entering on the Property to make repairs. Although Lender may take action under this paragraph 7, Lender does not have to do so.

Any amounts disbursed by Lender under this paragraph 7 shall become additional debt of Borrower secured by this Security Instrument. Unless Borrower and Lender agree to other terms of payment, these amounts shall bear interest from the date of disbursement at the Note rate and shall be payable, with interest, upon notice from Lender to Borrower requesting payment.

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(b) Lender required mortgage insurance as a condition of making the loan secured by this Security Instrument, Borrower shall pay the premiums required to maintain the insurance in effect until such time as the requirement for the insurance terminates in accordance with Borrower's and Lender's written agreement or applicable law.

8. Inspection. Lender or its agent may make reasonable entries upon and inspections of the Property. Lender shall give Borrower notice at the time of or prior to an inspection specifying reasonable cause for the inspection.

9. Condemnation. The proceeds of any award or claim for damages, direct or consequential, in connection with any condemnation or other taking of any part of the Property, or for conveyance in lieu of condemnation, are hereby assigned and shall be paid to Lender.

In the event of a total taking of the Property, the proceeds shall be applied to the sums secured by this Security Instrument, whether or not then due, with any excess paid to Borrower. In the event of a partial taking of the Property, unless Borrower and Lender otherwise agree in writing, the sums secured by this Security Instrument shall be reduced by the amount of the proceeds multiplied by the following fraction: (a) the total amount of the sums secured immediately before the taking, divided by (b) the fair market value of the Property immediately before the taking. Any balance shall be paid to Borrower.

If the Property is abandoned by Borrower, or if, after notice by Lender to Borrower that the condemnor offers to make an award or settle a claim for damages, Borrower fails to respond to Lender within 30 days after the date the notice is given, Lender is authorized to collect and apply the proceeds, at its option, either to restoration or repair of the Property or to the sums secured by this Security Instrument, whether or not then due.

Unless Lender and Borrower otherwise agree in writing, any application of proceeds to principal shall not extend or postpone the due date of the monthly payments referred to in paragraphs 1 and 2 or change the amount of such payments.

10. Borrower Not Released; Forbearance By Lender Not a Waiver. Extension of the time for payment or modification of amortization of the sums secured by this Security Instrument granted by Lender to any successor in interest of Borrower shall not operate to release the liability of the original Borrower or Borrower's successors in interest. Lender shall not be required to commence proceedings against any successor in interest or refuse to extend time for payment or otherwise modify amortization of the sums secured by this Security Instrument by reason of any demand made by the original Borrower or Borrower's successors in interest. Any forbearance by Lender in exercising any right or remedy shall not be a waiver of or preclude the exercise of any right or remedy.

11. Successors and Assigns Bound; Joint and Several Liability; Co-signers. The covenants and agreements of this Security Instrument shall bind and benefit the successors and assigns of Lender and Borrower, subject to the provisions of paragraph 17. Borrower's covenants and agreements shall be joint and several. Any Borrower who co-signs this Security Instrument but does not execute the Note: (a) is co-signing this Security Instrument only to mortgage, grant and convey that Borrower's interest in the Property under the terms of this Security Instrument; (b) is not personally obligated to pay the sums secured by this Security Instrument; and (c) agrees that Lender and any other Borrower may agree to extend, modify, forbear or make any accommodations with regard to the terms of this Security Instrument or the Note without that Borrower's consent.

12. Loan Charges. If the loan secured by this Security Instrument is subject to a law which sets maximum loan charges, and that law is finally interpreted so that the interest or other loan charges collected or to be collected in connection with the loan exceed the permitted limits, then: (a) any such loan charge shall be reduced by the amount necessary to reduce the charge to the permitted limit; and (b) any sums already collected from Borrower which exceeded permitted limits will be refunded to Borrower. Lender may choose to make this refund by reducing the principal owed under the Note or by making a direct payment to Borrower. If a refund reduces principal, the reduction will be treated as a partial prepayment without any prepayment charge under the Note.

13. Legislation Affecting Lender's Rights. If enactment or expiration of applicable laws has the effect of rendering any provision of the Note or this Security Instrument unenforceable according to its terms, Lender, at its option, may require immediate payment in full of all sums secured by this Security Instrument and may invoke any remedies permitted by paragraph 19. If Lender exercises this option, Lender shall take the steps specified in the second paragraph of paragraph 17.

14. Notices. Any notice to Borrower provided for in this Security Instrument shall be given by delivering it or by mailing it by first class mail unless applicable law requires use of another method. The notice shall be directed to the Property Address or any other address Borrower designates by notice to Lender. Any notice to Lender shall be given by first class mail to Lender's address stated herein or any other address Lender designates by notice to Borrower. Any notice provided for in this Security Instrument shall be deemed to have been given to Borrower or Lender when given as provided in this paragraph.

15. Governing Law; Severability. This Security Instrument shall be governed by federal law and the law of the jurisdiction in which the Property is located. In the event that any provision or clause of this Security Instrument or the Note conflicts with applicable law, such conflict shall not affect other provisions of this Security Instrument or the Note which can be given effect without the conflicting provision. To this end the provisions of this Security Instrument and the Note are declared to be severable.

16. Borrower's Copy. Borrower shall be given one conformed copy of the Note and of this Security Instrument.

17. Transfer of the Property or a Beneficial Interest in Borrower. If all or any part of the Property or any interest in it is sold or transferred (or if a beneficial interest in Borrower is sold or transferred and Borrower is not a natural person) without Lender's prior written consent, Lender may, at its option, require immediate payment in full of all sums secured by this Security Instrument. However, this option shall not be exercised by Lender if exercise is prohibited by federal law as of the date of this Security Instrument.

If Lender exercises this option, Lender shall give Borrower notice of acceleration. The notice shall provide a period of not less than 30 days from the date the notice is delivered or mailed within which Borrower must pay all sums secured by this Security Instrument. If Borrower fails to pay these sums prior to the expiration of this period, Lender may invoke any remedies permitted by this Security Instrument without further notice or demand on Borrower.

18. Borrower's Right to Reinstate. If Borrower meets certain conditions, Borrower shall have the right to have enforcement of this Security Instrument discontinued at any time prior to the earlier of: (a) 5 days (or such other period as applicable law may specify for reinstatement) before sale of the Property pursuant to any power of sale contained in this Security Instrument; or (b) entry of a judgment enforcing this Security Instrument. Those conditions are that Borrower: (a) pays Lender all sums which then would be due under this Security Instrument and the Note had no acceleration occurred; (b) cures any default of any other covenants or agreements; (c) pays all expenses incurred in enforcing this Security Instrument, including, but not limited to, reasonable attorneys' fees; and (d) takes such action as Lender may reasonably require to assure that the lien of this Security Instrument, Lender's rights in the Property and Borrower's obligation to pay the sums secured by this Security Instrument shall continue unchanged. Upon reinstatement by Borrower, this Security Instrument and the obligations secured hereby shall remain fully effective as if no acceleration had occurred. However, this right to reinstate shall not apply in the case of acceleration under paragraphs 13 or 17.

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18. **Covenants.** Borrower and Lender further covenant and agree as follows:

19. **Acceleration; Remedies.** Lender shall give notice to Borrower prior to acceleration following Borrower's breach of any covenant or agreement in this Security Instrument but not prior to acceleration under paragraphs 13 and 17 (unless applicable law provides otherwise). The notice shall specify: (a) the default; (b) the action required to cure the default; (c) a date, not less than 30 days from the date the notice is given to Borrower, by which the default must be cured; and (d) that failure to cure the default on or before the date specified in the notice may result in acceleration of the sums secured by this Security Instrument and sale of the Property at public auction at a date not less than 120 days in the future. The notice shall further inform Borrower of the right to reinstate after acceleration, the right to bring a court action to assert the non-existence of a default or any other defense of Borrower to acceleration and sale, and any other matters required to be included in the notice by applicable law. If the default is not cured on or before the date specified in the notice, Lender at its option may require immediate payment in full of all sums secured by this Security Instrument without further demand and may invoke the power of sale and any other remedies permitted by applicable law. Lender shall be entitled to collect all expenses incurred in pursuing the remedies provided in this paragraph 19, including, but not limited to, reasonable attorneys' fees and costs of title evidence.

If Lender invokes the power of sale, Lender shall give written notice to Trustee of the occurrence of an event of default and of Lender's election to cause the Property to be sold. Trustee and Lender shall take such action regarding notice of sale and shall give such notices to Borrower and to other persons as applicable law may require. After the time required by applicable law and after publication of the notice of sale, Trustee, without demand on Borrower, shall sell the Property at public auction to the highest bidder at the time and place and under the terms designated in the notice of sale in one or more parcels and in any order Trustee determines. Trustee may postpone sale of the Property for a period or periods permitted by applicable law by public announcement at the time and place fixed in the notice of sale. Lender or its designee may purchase the Property at any sale.

Trustee shall deliver to the purchaser Trustee's deed conveying the Property without any covenant or warranty, expressed or implied. The recitals in the Trustee's deed shall be prima facie evidence of the truth of the statements made therein. Trustee shall apply the proceeds of the sale in the following order: (a) to all expenses of the sale, including, but not limited to, reasonable Trustee's and attorneys' fees; (b) to all sums secured by this Security Instrument; and (c) any excess to the person or persons legally entitled to it or to the clerk of the superior court of the county in which the sale took place.

20. **Lender in Possession.** Upon acceleration under paragraph 19 or abandonment of the Property, Lender (in person, by agent or by judicially appointed receiver) shall be entitled to enter upon, take possession of and manage the Property and to collect the rents of the Property including those past due. Any rents collected by Lender or the receiver shall be applied first to payment of the costs of management of the Property and collection of rents, including, but not limited to, receiver's fees, premiums on receiver's bonds and reasonable attorneys' fees, and then to the sums secured by this Security Instrument.

21. **Reconveyance.** Upon payment of all sums secured by this Security Instrument, Lender shall request Trustee to reconvey the Property and shall surrender this Security Instrument and all notes and other debt secured by this Security Instrument to Trustee. Trustee shall reconvey the Property without warranty and will not charge to the person or persons legally entitled to it. Such person or persons shall pay any recordation costs.

22. **Substitute Trustee.** In accordance with applicable law, Lender may from time to time appoint a successor trustee to any Trustee appointed hereunder who has ceased to act. Without conveyance of the Property, the successor trustee shall succeed to all the title, power and duties conferred upon Trustee herein and by applicable law.

23. **Use of Property.** The Property is not used principally for agricultural or farming purposes.

24. **Riders to this Security Instrument.** If one or more riders are executed by Borrower and recorded together with this Security Instrument, the covenants and agreements of each such rider shall be incorporated into and shall amend and supplement the covenants and agreements of this Security Instrument as if the rider(s) were a part of this Security Instrument. [Check applicable box(es)]

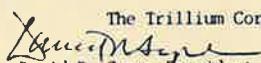
- Adjustable Rate Rider
 Graduated Payment Rider
 Other(s) (specify)

- Condominium Rider
 Planned Unit Development Rider

- 2-4 Family Rider

BY SIGNING BELOW, Borrower accepts and agrees to the terms and covenants contained in this Security Instrument and in any rider(s) executed by Borrower and recorded with it.

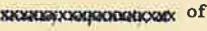
IN WITNESS WHEREOF, Borrower has executed this Deed of Trust.


David R. Syre, President

—Borrower

STATE OF WASHINGTON,)
County of Whatcom)
ss

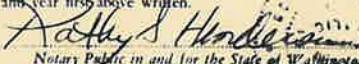
On this 25th day of September 1986, before me, the undersigned, a Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared

David R. Syre and 
to me known to be the President and

The Trillium Corporation

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 he authorized to execute the said instrument and that the seal affixed (if any) 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 Deming

REQUEST FOR RECONVEYANCE

TO TRUSTEE:

The undersigned is the holder of the note or notes secured by this Deed of Trust. Said note or notes, together with all other indebtedness secured by this Deed of Trust, have been paid in full. You are hereby directed to cancel said note or notes and this Deed of Trust, which are delivered hereby, and to reconvey, without warranty, all the estate now held by you under this Deed of Trust to the person or persons legally entitled thereto.

Date:

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EXHIBIT "A"

The portion of Sections 12 and 13, Township 37 North, Range 2 East, W.M., being more particularly described as follows:

Commencing at the South quarter corner of said Section 12, thence North 1°32'55" East along the North-South center line of said Section 12, a distance of 233.30 feet to the true point of beginning; thence North 57°40'18" West, 47.68 feet; thence North 65°46'57" West, 80.30 feet; thence South 84°13'46" West, 60.81 feet; thence South 57°06'21" West, 29.57 feet; thence South 46°56'53" West 37.11 feet; thence South 61°06'49" West, 39.28 feet; thence South 48°33'45" West 40.11 feet; thence South 35°40'36" West, 47.12 feet; thence South 35°12'17" West, 29.03 feet; thence South 54°16'25" West 48.27 feet; thence South 39°39'28" West 33.98 feet; thence South 43°48'04" West 50.51 feet; thence South 43°19'02" West, 37.16 feet; thence South 52°23'29" West, 34.90 feet; thence South 38°06'39" West, 97.99 feet; thence North 78°23'08" West 44.70 feet; thence South 87°36'57" West, 97.19 feet; thence South 56°03'13" West, 125.00 feet; thence South 48°16'44" West 133.22 feet; thence South 33°55'29" West, 116.46 feet; thence South 73°16'54" West, 97.70 feet; thence South 42°32'12" West, 85.02 feet; thence South 58°32'39" West, 59.97 feet; thence South 59°45'15" West, 80.35 feet; thence South 12°55'13" West, 29.08 feet; thence South 49°46'26" West, 92.28 feet to the West line of Government Lot 2 in said Section 13; thence North 1°50'21" East along said West line 581.98 feet to the Southwest corner of the Southeast quarter of the Southwest quarter of said Section 12; thence North 1°35'46" East along the West line of said Southeast quarter of the Southwest quarter, 115.15 feet to the Southerly line of the Plat of Viewcrest as recorded in volume 8 of Plats at page 5, under Auditor's File No. 643936, records of Whatcom County; thence North 59°29'05" East along said Southerly line, 197.74 feet; thence North 32°22'05" East along said Southerly line, 89.88 feet; thence South 30°30'55" East along said Southerly line 175.56 feet; thence North 32°22'05" East along said Southerly line 393.22 feet; thence North 47°45'05" East along said Southerly line 326.85 feet; thence North 59°29'05" East along said Southerly line 565.51 feet; thence North 84°08'05" East along said Southerly line, 623.13 feet; thence North 41°11'45" East along said Southerly line 141.46 feet to the intersection with the Southerly right-of-way line of Chuckanut Drive; thence South 48°48'15" East along said Southerly right-of-way line 920.93 feet to the intersection with the East line of the Southwest quarter of the Southeast quarter of said Section 12; thence South 1°26'46" West along said East line 177.10 feet to a point 455.00 feet North of the Southeast corner of said subdivision; thence North 90° West, 450.00 feet; thence North 57°28'38" West, 247.12 feet to the

(continued on following page)

VOL 022 PAGE 669

9 26 86

1550388

EXHIBIT "A" (continued)

intersection with the East line of the Southwest quarter of the Southwest quarter of the Southeast quarter of said Section 12; thence North 1°29'51" East along said East line, 100.00 feet to the Northeast corner of said subdivision; thence North 87°58'17" West along the North line of said subdivision, 661.45 feet to the Northwest corner of said subdivision; thence South 1°32'55" West along the West line of said subdivision 430.15 feet to the true point of beginning. Situate in Whatcom County, Washington.

022 PAUL 670



The Trillium Corporation
4183 Meridian Street
Bellingham, Wa. 98226
(206) 676-9400

CITY OF BELLINGHAM

SEP 25 1986

PLANNING & ECONOMIC
DEVELOPMENT

September 24, 1986

Mr. William Geyer, Director
Bellingham Planning Department
210 Lottie Street
Bellingham, WA 98225

Re: Briza Subdivision - Final Plat

Dear Bill:

Attached are five copies of the Briza Final Plat, incorporating the changes recommended in your letter of August 25, 1986. Also enclosed is a signed copy of the C, C, & R's, ready to be recorded with the Final Plat. A letter from Whatcom Land Title Company verifying the Plat Certificate W-7449 was sent directly to you under separate cover by David Goddard.

Because of the delay in shipment of the sewer pump station, we are still on hold for a final inspection. We have requested that the Public Works Department allow us to bond for the installation of the pumps and the required landscaping so that we can move forward to Final Plat approval.

Please let me know if there are any further actions I should take to be prepared to move expeditiously through the Final Plat approval process.

Sincerely,

Jean Gorton
Vice President

JG/cw

Enclosures

cc: Gary Sturdy, Project Engineer
✓ickie Matheson, Planner
Tom Rosenberg, City Engineer



The Trillium Corporation

4183 Meridian Street
Bellingham, Wa. 98226
(206) 676-9400

CITY OF BELLINGHAM

SEP 29 1986

PLANNING & ECONOMIC
DEVELOPMENT

September 24, 1986

Mr. William Geyer, Director
Bellingham Planning Department
210 Lottie Street
Bellingham, WA 98225

Re: Briza Subdivision - Final Plat

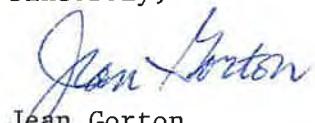
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Please let me know if there are any further actions I should take to be prepared to move expeditiously through the Final Plat approval process.

Sincerely,



Jean Gorton
Vice President

JG/cw

Enclosures

cc: Gary Sturdy, Project Engineer
Vickie Matheson, Planner
Tom Rosenberg, City Engineer

Whatcom Land Title Company, Inc.

110 Grand Avenue, P.O. Box 516
Bellingham, Washington 98227
Phone (206) 676-8484 County (206) 384-5095

September 18, 1986

City of Bellingham
Planning Department
Bellingham, WA 98225

Attn: Mr. Bill Geyer

RE: Proposed Plat of Briza
Our Plat Certificate W-7449
Dated: April 8, 1986 at 8:00 a.m.

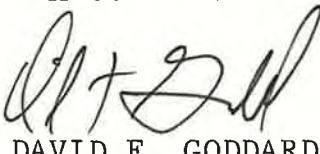
Dear Mr. Geyer:

Please be advised that there has been no change in the ownership or underlying encumbrances since April 8, 1986, the date of our Certificate.

Please do not hesitate to contact me if you have any questions or concerns.

Very truly yours,

WHATCOM LAND TITLE COMPANY, INC.



DAVID F. GODDARD

DFG/jde

cc: Trillium Corporation



FIRE DEPARTMENT, 210 Lottie Street, Bellingham, Washington 98225
Telephone: (206) 676-6830

September 4, 1986

TO: Vickie Matheson, Development Planner
FROM: Robert A. Neale, Fire Marshal *Rob*
SUBJECT: BRIZA SUBDIVISION STREET NAMES

I have reviewed the proposed street names (Sea Pines Road and Briza Court) with the What-Comm Emergency Communication Center, and find there are no conflicts with existing street names.

Thank you for this opportunity to comment.

RAN/djl

cc
969-11

COST ESTIMATE PLAT OF BRIZA

	<u>TOTAL COST</u>	<u>UNITS</u>
1. MAIN ROAD		
EXCAVATION	\$87,877.50	\$29,625 cu. yd.
COMPACTED FILL	21,265.50	19,795 cu. yd.
GRAVEL BALLAST	15,470.00	.2,275 cu. yd.
CRUSHED ROCK	8,690.00	790 tons
ASPHALT	45,832.00	1,348 tons
CURB AND GUTTER	25,901.70	5,511 l.f.
ROCK WALL	21,000.00	500 l.f.
FRENCH DRAIN	15,483.00	2,490 l.f.
GRASS SEEDING	3,857.00	26,600 sq. yd.
GUARD RAIL	8,487.50	485 l.f.

	\$253,864.20	
2. PRIVATE ROADS		
EXCAVATION	\$70,283.40	\$21,298 cu. yd.
COMPACTED FILL	954.00	1,060 cu. yd.
GRAVEL BALLAST	12,376.00	1,756 cu. yd.
CRUSHED ROCK	6,842.00	622 tons
ASPHALT	24,378.00	717 tons
FRENCH DRAIN	14,756.00	2,380 l.f.
SEEDING	1,403.60	9,680 sq. yd.
ROCK WALL	12,150.00	405 l.f.
CURB & GUTTER	7,238.00	1,540 l.f.

	\$150,381.00	
3. STORM SEWER		
12" CMP	\$41,360.00	\$2,585 l.f.
18" CMP	12,870.00	572 l.f.
MANHOLES	20,400.00	17
CATCH BASINS	5,265.00	9
6" CMP	770.00	220 l.f.
OPEN DITCH	9,000.00	450 l.f.
CONCRETE INLET	800.00	2
OUT FALLS	750.00	30 cu. yd.
10" PVC	364.00	26 l.f.
15" PVC	6,707.00	353 l.f.
8" PVC	2,028.00	156 l.f.

	\$100,314.00	
4. WATER		
8" D.I.	\$51,741.75	\$3,631 l.f.
6" D.I.	1,872.00	156 l.f.
8" VALVES	2,800.00	7
FIRE HYDRANTS	8,400.00	7
FITTINGS	2,400.00	L.S.
SERVICES	11,800.00	58

	\$79,013.75	

	<u>TOTAL COST</u>	<u>UNITS</u>
5. SANITARY SEWERS		
8" PVC	\$ 55,104.00	\$ 3,936 1.f.
MANHOLES	19,200.00	16
4" PVC SIDE SERWER	18,532.00	58
6" FORCE MAIN	14,400.00	1,200 1.f.
FORCE MAIN VALVES	1,400.00	L.S.
PUMP STATION	107,000.00	L.S.
GRAVITY SEWER	23,910.00	1,594 1.f.
MANHOLES CHUCKANUT	7,350.00	7

	\$ 246,896.00	



PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT

William T. Geyer, Director
(206) 676-6982

City Hall • 210 Lottie • Bellingham, Washington 98225

September 3, 1986

MEMORANDUM

TO: Byron Elmendorf, Parks Director
FROM: Bill Geyer, Director *Bill*
RE: Briza Trail Development

Just a comment on your memo dated 8/25/86 to the Mayor related to the Briza Trail.

Although it was appropriate to meet with Trillium related to their ideas on the trail, I think that the trail should be built to City standards, not Trillium's. If, in your opinion, Trillium's plans are substantially more than what the City would do, I think Trillium should pay the difference or accept the lessor standard.

WTG:kc

cc: Tim Douglas, Mayor



CITY OF BELLINGHAM

AUG 26 1986

PLANNING & ECONOMIC

PARKS & RECREATION DEPARTMENT, 210 Lottie St., Bellingham, Washington 98225
Telephone (206) 676-6985

M E M O R A N D U M

TO: BE Tim Douglas, Mayor
FROM: Byron Elmendorf, Parks and Recreation Director
DATE: August 25, 1986
SUBJECT: BRIZA TRAIL DEVELOPMENT

As discussed, I am concerned with the requirement to construct the "public trail" within the Briza Subdivision to Chuckanut Bay Tidelands.

After meeting with Jean Gorton, Trillium will deed the property to the city as determined by City Council. No legal action will be filed, however, the city is to construct the trail at an acceptable standard in keeping with the subdivision plans.

Enclosed is the plan which was prepared last fall for the Briza Development. The cost estimate was \$12,000 to \$15,000 for the trail. Due to this area having the steepest part of the hillside, stairs and handrails are required in some areas. In addition, they included benches and landscaping.

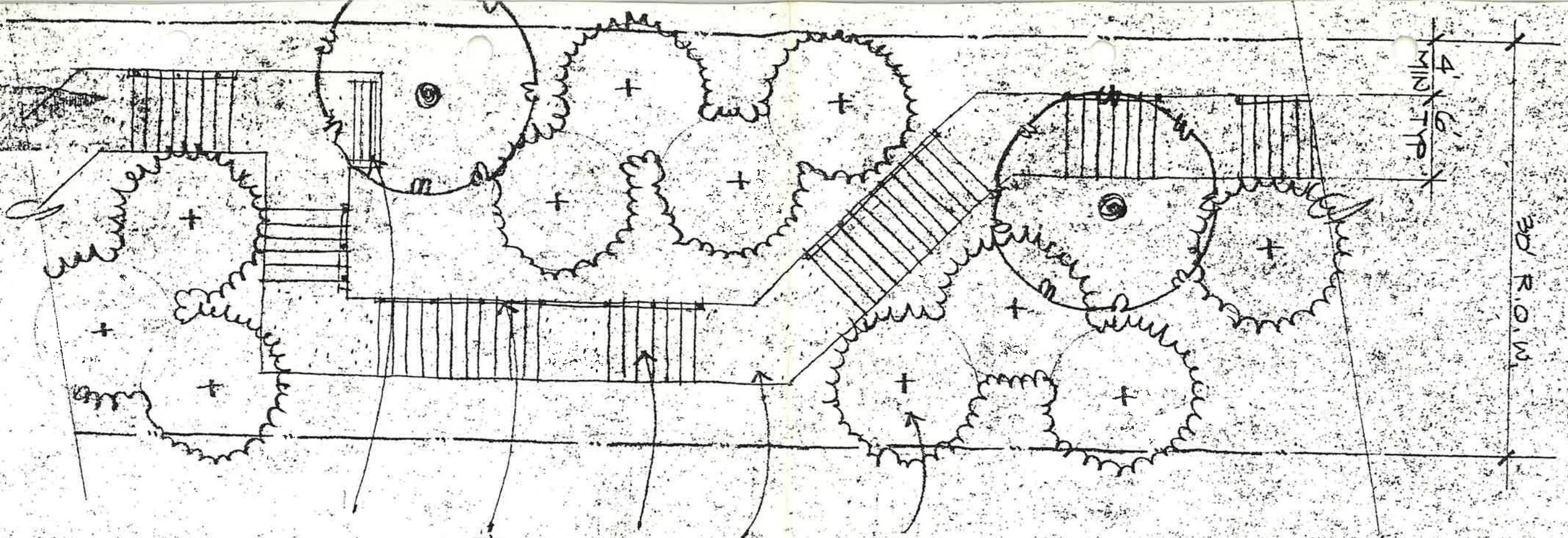
The design provides for an excellent trail connection to the Bay, however, at the price what is the priority for this trail compared to other higher used park facilities? It appears this trail, due to the location and steep access, will mostly serve the residents of Briza instead of the community. The public is better served by the Fairhaven avenue access since it is level and hopefully will have limited designated parking in the near future.

I will submit the trail funding within our 1987 department budget request unless directed otherwise. Since the trail construction would require a heavy commitment on limited city staff time, we would contract out the work. This will require development of a bid proposal plus project supervision beyond the cost of the trail construction.

If you have any questions or suggestions, contact me.

BE:js

cc: Tip Johnson, City Councilman
Jean Gorton, Trillium Corporation
Bill Hager, Planning Manager



JOSEPH G. GERRARD, MINNEAPOLIS

1/8" = 1'-0"

OCT. 31 1965

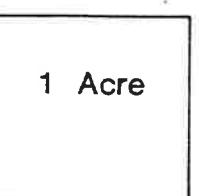
Briza

Zoning R 1

Detached Cluster

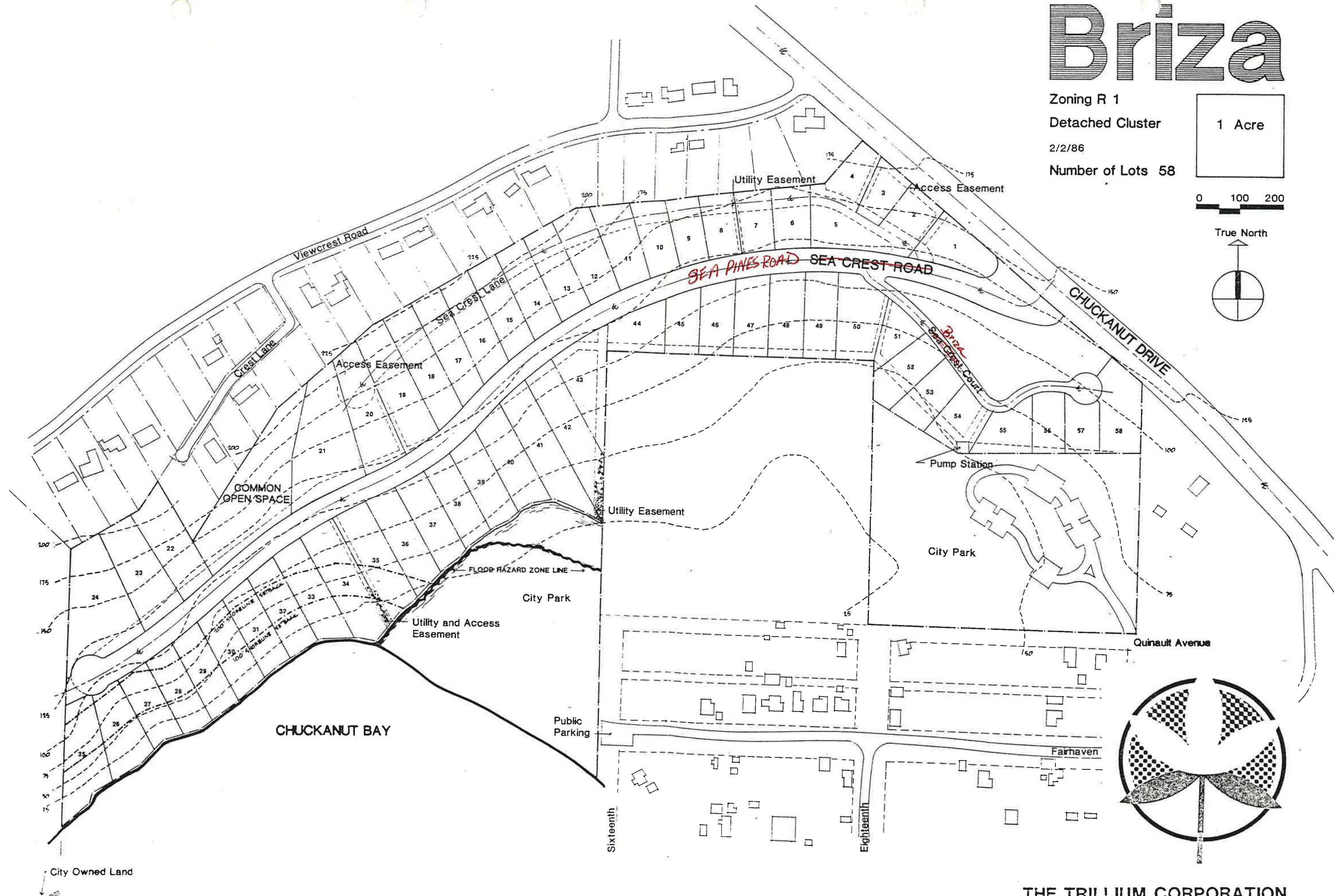
2/2/86

Number of Lots 58



0 100 200

True North



Briza

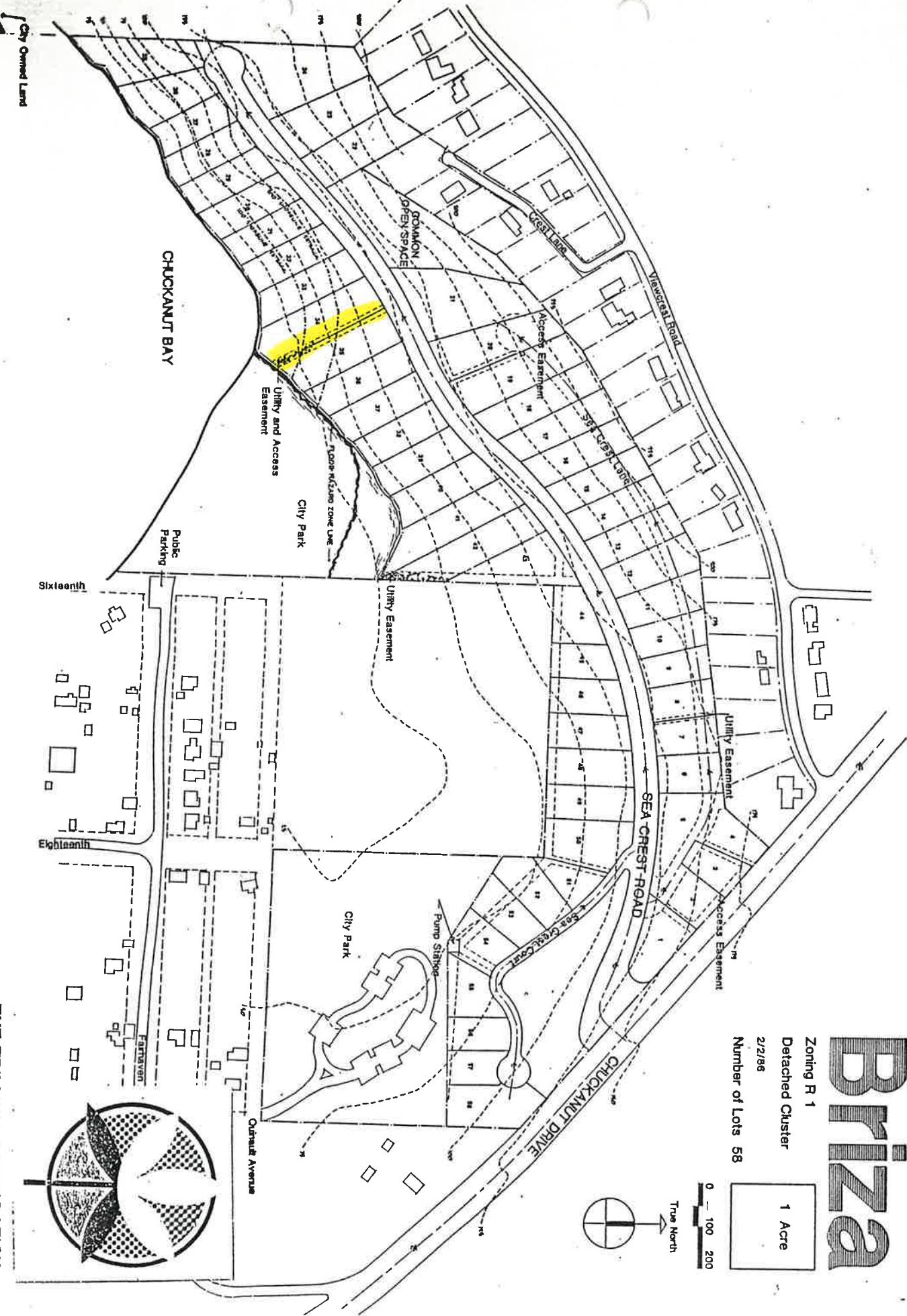
Zoning R 1
Detached Cluster
2/2/86

Number of Lots 58

1 Acre

0 - 100 200

True North



UNITED PACIFIC INSURANCE COMPANY

HEAD OFFICE, FEDERAL WAY, WASHINGTON

Bond No. U56 39 31

PUBLIC WORKS CONTRACT BOND

KNOW ALL MEN BY THESE PRESENTS: That we, J-I-J CONSTRUCTION COMPANY, INC.

as Principal, and the UNITED PACIFIC INSURANCE COMPANY, a corporation, organized and existing under and by virtue of the laws of the State of Washington, and legally doing business in the State of Washington, as Surety, are held and firmly bound and obligated unto CITY OF BELLINGHAM

in the full and just sum of TWO THOUSAND AND NO/100----- (\$ 2,000.00) DOLLARS,

lawful money of the United States, for the payment of which sum well and truly to be made, we do bind ourselves, our and each of our heirs, executors and administrators, successors and assigns, jointly and severally, firmly by these presents.

This bond is executed in pursuance of Chapter 39.08, Revised Code of Washington.

THE CONDITIONS OF THIS OBLIGATION ARE SUCH, That whereas the Principal entered into a certain contract with CITY OF BELLINGHAM

dated the day of , 19 , for WINDTREE HEIGHT *SD312*
PLANTING STREET TREES
TOTAL OF 54 SILVER MAPLE TREES

NOW, THEREFORE, if the Principal shall faithfully perform all the provisions of such contract and pay all laborers, mechanics and subcontractors and materialmen, and all persons who shall supply such person or persons, or subcontractors, with provisions and supplies for the carrying on of such work, then this obligation is void; otherwise to remain in full force and effect.

PROVIDED, HOWEVER, that the conditions of this obligation shall not apply to any money loaned or advanced to the Principal or to any subcontractor or other person in the performance of any such work.

Signed and Sealed this 27th day of August, 19 86.

Countersigned:

HURLEY, ATKINS & STEWART, INC.

By: *L.J. Stewart* RESIDENT AGENT
L.J. Stewart

Approved as to Form:

J-I-J CONSTRUCTION COMPANY, INC.

By: *L.J. Stewart, Price* PRINCIPAL

UNITED PACIFIC INSURANCE COMPANY

By: *Mary A. Dobbs* ATTORNEY-IN-FACT
Mary A. Dobbs



PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT

William T. Geyer, Director
(206) 676-6982

City Hall • 210 Lottie • Bellingham, Washington 98225

August 25, 1986

Jean Gorton, Vice President
Trillium Corporation
4183 Meridian Street
Bellingham, WA 98225

RE: Briza Subdivision -- Final Plat Approval

Dear Jean,

Thank you for submitting the revisions to the Final Plat of the Briza Subdivision. There appears to be a few remaining changes which need to be made. They include the following items:

1. The pedestrian easements should be indicated on the Plat as required by the amended preliminary plat. I have attached a copy of the Final Plat reviewed by the City Attorney's office with suggested changes shown in red.
2. Sea Crest Court should be a publically dedicated right-of-way 50 feet in width with a 24 foot wide paved surface. The remaining property between Sea Crest Road and Court should be designated as private open space with the responsibility for maintenance resting with the property owners. A slope easement across this property shall be granted to the City.
3. References to "Engineer" should be changed to "City Engineer".
4. References to "City Treasurer" should be changed to "Finance Director".
5. References to the "Engineering Department" should be changed to "Public Works Department".

I have also attached a copy of comments received from the Public Works Department which also identifies a few required changes. Please include these amendments as well.

My staff has recently been in contact with your engineer on this project regarding the Shoreline Permit condition which requires that plant material be installed in the drainage swales one growing season prior to use. It is my understanding that the vegetation is planted and growing now and that photographs showing the vegetation are on their way. After discussing the matter with the City Attorney, it is our determination that if the grass is of sufficient size and sturdiness to serve the intended purpose of settling out sediments, a full growing season may not be necessary.

Letter to Ms. Gorton
Page Two
August 25, 1986

Finally, before filing of the Plat, we will need a letter from the title company verifying that the Plat Certificate submitted is current and up to date.

Once the above changes are made, an inspection of improvements has been completed, and appropriate bonding has been posted, we will schedule acceptance of the final plat by the City Council.

Sincerely,

William T. Geyer
William T. Geyer
Director

WTG/VM/jo

cc: Gary Sturdy
William Hager, Planning Manager
Rob Neale, Fire Marshal
Tom Rosenberg, City Engineer
Ian Sievers, Assistant City Attorney
Ron Olson, Surveyor Supervisor
Vickie Matheson, Development Planner

UNITED PACIFIC INSURANCE COMPANY

HEAD OFFICE, FEDERAL WAY, WASHINGTON

POWER OF ATTORNEY

NOW ALL MEN BY THESE PRESENTS, That the UNITED PACIFIC INSURANCE COMPANY, a corporation duly organized under the laws of the State of Washington, does hereby make, constitute and appoint

MARY A. DOBBS of SEATTLE, WASHINGTON -----

its true and lawful Attorney-in-Fact, to make, execute, seal and deliver for and on its behalf, and as its act and deed

ANY AND ALL BONDS AND UNDERTAKINGS OF SURETYSHIP -----

and to bind the UNITED PACIFIC INSURANCE COMPANY thereby as fully and to the same extent as if such bonds and undertakings and other writings obligatory in the nature thereof were signed by an Executive Officer of the UNITED PACIFIC INSURANCE COMPANY and sealed and attested by one other of such officers, and hereby ratifies and confirms all that its said Attorney(s)-in-Fact may do in pursuance hereof.

This Power of Attorney is granted under and by authority of Article VII of the By-Laws of UNITED PACIFIC INSURANCE COMPANY which became effective September 7, 1978, which provisions are now in full force and effect, reading as follows:

ARTICLE VII – EXECUTION OF BONDS AND UNDERTAKINGS

1. The Board of Directors, the President, the Chairman of the Board, any Senior Vice President, any Vice President or Assistant Vice President or other officer designated by the Board of Directors shall have power and authority to (a) appoint Attorneys-in-Fact and to authorize them to execute on behalf of the Company, bonds and undertakings, recognizances, contracts of indemnity and other writings obligatory in the nature thereof, and (b) to remove any such Attorney-in-Fact at any time and revoke the power and authority given to him.

2. Attorneys-in-Fact shall have power and authority, subject to the terms and limitations of the power of attorney issued to them, to execute and deliver on behalf of the Company, bonds and undertakings, recognizances, contracts of indemnity and other writings obligatory in the nature thereof. The corporate seal is not necessary for the validity of any bonds and undertakings, recognizances, contracts of indemnity and other writings obligatory in the nature thereof.

3. Attorneys-in-Fact shall have power and authority to execute affidavits required to be attached to bonds, recognizances, contracts of indemnity or other conditional or obligatory undertakings and they shall also have power and authority to certify the financial statement of the Company and to copies of the By-Laws of the Company or any article or section thereof.

This power of attorney is signed and sealed by facsimile under and by authority of the following Resolution adopted by the Board of Directors of UNITED PACIFIC INSURANCE COMPANY at a meeting held on the 5th day of June, 1979, at which a quorum was present, and said Resolution has not been amended or repealed:

"Resolved, that the signatures of such directors and officers and the seal of the Company may be affixed to any such power of attorney or any certificate relating thereto by facsimile, and any such power of attorney or certificate bearing such facsimile signatures or facsimile seal shall be valid and binding upon the Company and any such power so executed and certified by facsimile signatures and facsimile seal shall be valid and binding upon the Company in the future with respect to any bond or undertaking to which it is attached."

IN WITNESS WHEREOF, the UNITED PACIFIC INSURANCE COMPANY has caused these presents to be signed by its Vice President, and its corporate seal to be hereto affixed, this 26th day of July 1983

UNITED PACIFIC INSURANCE COMPANY


Charles B. Schmalz

Vice President



STATE OF Washington
COUNTY OF King } ss.

On this 26th day of July 1983, personally appeared Charles B. Schmalz

to me known to be the Vice-President of the UNITED PACIFIC INSURANCE COMPANY, and acknowledged that he executed and attested the foregoing instrument and affixed the seal of said corporation thereto, and that Article VII, Section 1, 2, and 3 of the By-Laws of said Company, and the Resolution, set forth therin, are still in full force.

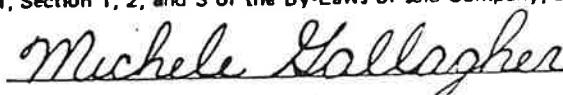
My Commission Expires:

May 1 1990



Notary Public in and for State of Washington

Residing at Tacoma

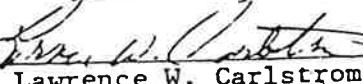

Michele Gallagher

I, Lawrence W. Carlstrom, Assistant Secretary of the UNITED PACIFIC INSURANCE COMPANY, do hereby certify that the above and foregoing is a true and correct copy of a Power of Attorney executed by said UNITED PACIFIC INSURANCE COMPANY, which is still in full force and effect.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of said Company this 27th day of August 1986



Assistant Secretary


Lawrence W. Carlstrom



PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT

William T. Geyer, Director
(206) 676-6982

City Hall • 210 Lottie • Bellingham, Washington 98225

August 28, 1986

M E M O R A N D U M

TO: Linda Storck, Finance Department
FROM: Vickie Matheson, Development Planner
RE: Briza Subdivision Final Plat

Please find attached the proposed Final Plat for Briza Subdivision. Also attached is the City Subdivision Ordinance requirements for the Finance Director's approval and signature for final plats. I have included the figures submitted by the developer as required in the Ordinance.

I don't expect this Plat to be scheduled for Council consideration until mid September, but I thought I'd give you a head start on it. A signature is not necessary until we have received the mylar copy. I will be on vacation until September 8th, but I'm sure that either Bill Hager or Marziah Kiehn would be happy to help you out if you have any questions.

VDM/jo

cc: Bill Hager, Planning Manager
Marziah Kiehn, Development Planner

.110

FINANCE OFFICER APPROVAL

Each plat shall contain the certification of the city treasurer that all filing fees, city taxes, and assessments and other fees for which the property may be liable have been of the city's utility systems current, the following estimated or actual costs will be submitted to the city's accounting division before the city treasurer shall approve the final plat:

- A. Water mains - total costs, labor, equipment, materials with size and number of feet.
- B. Hydrants - give number put in, size and cost.
- C. Storm sewer - total cost of size and number of feet.
- D. Sanitary sewer - total cost with size and number of feet.
- E. Streets - total cost and number of feet put in.
- F. Sidewalks and curbs - total cost.

.120

DIRECTOR OF PLANNING AND ECONOMIC DEVELOPMENT ACTION

The Planning and Economic Development Director shall review the final plat for conformance with the approved preliminary plat, for completion of all the requirements contained in this ordinance, and for conformance with other standards or codes which pertain to the plat. Upon determination that platting requirements have been satisfied, the Planning and Economic Development Director shall approve the plat by signature and forward the plat to the City Council for action.

.130

COUNCIL REVIEW AND APPROVAL

The City Council shall review the final plat and if the Council finds that the public use and interest will be served by the proposed plat, and that said plat meets the requirements of this ordinance and any other state or local ordinances pertaining thereto, it shall suitably inscribe and execute its approval on the face of the plat.

.140

FILING WITH COUNTY AUDITOR

The final approved plat shall be filed for record with the county auditor in compliance with state and county laws and regulations.

.150

COPY FURNISHED BY SUBDIVIDER

In accordance with the state law and with regulations of this ordinance the subdivider shall, without cost to the city, furnish copy, mylar or better quality, of the final plat as filed.

COST ESTIMATE PLAT OF B.R.C.

	<u>TOTAL COST</u>	<u>UNITS</u>
1. MAIN ROAD		
EXCAVATION	\$87,877.50	\$29,625 cu. yd.
COMPACTED FILL	21,265.50	19,795 cu. yd.
GRAVEL BALLAST	15,470.00	2,275 cu. yd.
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18" CMP	12,870.00	572 l.f.
MANHOLES	20,400.00	17
CATCH BASINS	5,265.00	9
6" CMP	770.00	220 l.f.
OPEN DITCH	9,000.00	450 l.f.
CONCRETE INLET	800.00	2
OUT FALLS	750.00	30 cu. yd.
10" PVC	364.00	26 l.f.
15" PVC	6,707.00	353 l.f.
8" PVC	2,028.00	156 l.f.

	\$100,314.00	
4. WATER		
8" D.I.	\$51,741.75	\$3,631 l.f.
6" D.I.	1,872.00	156 l.f.
8" VALVES	2,800.00	7
FIRE HYDRANTS	8,400.00	7
FITTINGS	2,400.00	L.S.
SERVICES	11,800.00	58

	\$79,013.75	

5. SANITARY SEWERS

	<u>TOTAL COST</u>	<u>UNIT</u>
8" PVC	\$ 55,104.00	\$ 3,936 l.f.
MANHOLES	19,200.00	16
4" PVC SIDE SERWER	18,532.00	58
6" FORCE MAIN	14,400.00	1,200 l.f.
FORCE MAIN VALVES	1,400.00	L.S.
PUMP STATION	107,000.00	L.S.
GRAVITY SEWER	23,910.00	1,594 l.f.
MANHOLES CHUCKANUT	7,350.00	7
	<hr/> \$ 246,896.00	



F FILE

PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT

William T. Geyer, Director
(206) 676-6982

City Hall • 210 Lottie • Bellingham, Washington 98225

August 27, 1986

M E M O R A N D U M

TO: Concerned Parties

FROM: William T. Geyer, Director *WTG*

RE: Briza Subdivision Street Names

Some concern was expressed by service providers regarding earlier proposed street names in the Briza Subdivision. For this reason, two new names are now proposed: Sea Pines Road and Briza Court. If you have any problems with these proposals, please notify Vickie Matheson of this office by September 8, 1986. Thank you.

WTG/VM/jo

Enclosure



CITY OF BELLINGHAM

APR 17 1986

PLANNING & ECONOMIC

DEPARTMENT OF PUBLIC WORKS, 210 Lottie St., Bellingham, Washington 98225
Telephone (206) 676-6961

MEMORANDUM:

TO: Bill Geyer, Planning & Economic Development Director
FROM: Tom Rosenberg, City Engineer *TR*
DATE: April 16, 1986
SUBJECT: Briza Final Plat

Before we can feel comfortable with accepting a bond for the remaining improvements to complete the Briza Subdivision, we need to meet and discuss the same with Trillium. We need to discuss the current status of the project, Trillium's schedule for completing the remaining improvements, and the type of security they will offer the City to insure performance.

In the past, performance bonds have been accepted for subdivisions, however, the major portion of the improvements had been completed. In this instance, many improvements remain outstanding, in fact the majority of the improvements are yet to be accomplished. In order to consider a performance bond, it is necessary to carefully evaluate the City's risks associated with such a proposal.

TLR:shh
R041586t

cc: Jack Garner
Wan Huang

*Bill - set up meeting
& brief me on
details prior
to session with
Tom.*

- B.

*VIC - set it up
soon*

BRIZA SUB DIVISION



Memorandum

CITY OF BELLINGHAM

JUL 14 1986

PLANNING & ECONOMIC

7/11/86

CHUCKANUT

APPRAISALS DATED OCT 1984

TIDEFLAT (marshy
(Purchased May 1985) 39 Acres $\$ 2,100/\text{Acre} = \$ 81,900$

UPLANDS
(WADING WILDLIFE) 7 Acres $20,000/\text{Acre} = \$ 140,000$
 $\$ 221,900$

Miller did APPRAISAL / Amerson did
APPRAISAL Review

* March 1986 - updated APPRAISAL same amount

PAR 103 12/80 Trillium is donating $1/2$ value - Federal
Grant paying $1/2$ amount.



File

PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT

William T. Geyer, Director
(206) 676-6982

City Hall • 210 Lottie • Bellingham, Washington 98225

June 25, 1986

MEMORANDUM

TO: Byron Elmendorf

FROM: Bill Hager 

RE: Briza

Congratulations you get to build the access in the Briza subdivision. See me when you get back.

Also, could you get me the numbers on tideland/upland acreage appraisals. Thanks. I need it for the Council's information.

BH/kc



PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT

William T. Geyer, Director

(206) 676-6982

City Hall • 210 Lottie • Bellingham, Washington 98225

June 24, 1986

MEMORANDUM

TO: Tom Rosenberg, City Engineer
FROM: Bill Hager, Planning Manager *Bill*
RE: Briza Construction

I have received some questions from Council relative to construction activities within the Briza development. Specifically, neighbors have expressed concern about the fill used for the main road. They feel it might not be stable. Concern has also been expressed about erosion from the construction thus far. In addition, the drainage channels to the marsh were not supposed to be used until the vegetation was in and growing for one growing season.

I would appreciate talking to you about these things upon your return. Thanks.

BH/kc

*fill ok
independent testing
1 year bond*

*road construction
to marsh*

TK drainage area

Mac Hager

cc:



File Copy

PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT

William T. Geyer, Director
(206) 676-6982

City Hall • 210 Lottie • Bellingham, Washington 98223

June 24, 1986

Norm Shearer, Executive Vice President
Home Builders Association
1844 B Iron Street
Bellingham, WA 98225

RE: Briza Subdivision Preliminary Plat

Dear Norm:

You have requested information as to City mandated park requirements for the Briza Subdivision along Chuckanut Drive.

All open space within Briza will be privately held by the plat homeowners with the exception of an access easement between the street and the Chuckanut Tidelands. The City felt that the access easement should be available for use by both public and lot owners. No other park land nor fee per lot was required.

Trillium, the plat developer, did donate one-half of the appraised value of adjacent property and tidelands under their ownership to the City. The City used this donation as a match to secure a state grant for the remaining one-half appraised value.

Because of this offer, the City felt that Trillium should not have to contribute further.

Mr. Norm Shearer, Executive Vice President
June 24, 1986
Page 2

I hope this answers any questions you might have on the matter. If not, please do not hesitate to give me a call.

Sincerely,



Bill Hager
Planning Manager

WH/kc



CITY ATTORNEY, 210 Lottie St., Bellingham, Washington 98225
Telephone: (206) 676-6903

June 23, 1986

MEMO TO: City Council
FROM: Bruce Disend, City Attorney
SUBJECT: Briza Subdivision

I have received a letter from Trillium's attorney (Peter Buck) concerning the issue of public access along the internal pedestrian easements of the Briza Subdivision. The letter contends that Trillium made its decision to go ahead with the plat based on the understanding that no public access would be required. Council will be receiving a report on this subject at tonight's Council meeting.

The legal framework surrounding final plat approval may be stated succinctly:

1. Prior to submission of a final plat for approval, the plat shall conform in all respects to the design standards and improvement requirements specified in the City subdivision law. 18.20.010.
2. The City Council shall review the final plat. If Council finds that the public use and interest will be served by the proposed plat, and that the plat meets the requirements of the City subdivision law and any other related state or local ordinances, it shall approve the plat. 18.20.130.

Final plat approval is normally a ministerial act, rather than an opportunity to adjust the conditions or requirements of the preliminary plat. The purpose of this evening's discussion, however, is to do some fact-finding concerning the preliminary plat approval. If Council finds that no public access was intended for the pedestrian easements, then such a condition should not be imposed at this time. On the other hand, if Council finds that public access was intended, then the language of the Resolution accepting the plat should be amended to reflect that finding.

cc: Bill Hager



PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT

William T. Geyer, Director
(206) 676-6982

City Hall • 210 Lottie • Bellingham, Washington 98225

June 23, 1986

M E M O R A N D U M

TO: City Council
FROM: William Hager, Planning Manager *W.H. Hager*
RE: "Briza" Access Requirements

The Shoreline Committee met on June 19, 1986 to review their recollection of whether the pedestrian access through the plat was to be open to the public.

Both the remembrance and the recommendation of the Committee was that the access was for the general public. They felt that it was appropriate, however, for the access to be in the form of a dedication rather than an easement with the City assuming maintenance responsibilities. See attached minutes.

WH/jo

Attachment

LAW OFFICES OF
BUCK & GORDON
A PROFESSIONAL SERVICE CORPORATION
WATERFRONT PLACE, SUITE 902
1011 WESTERN AVENUE
SEATTLE, WASHINGTON 98104
(206) 382-9540

PETER L. BUCK
JAY R. DERR*
JOEL M. GORDON†
AMY L. KOSTERLITZ

* ALSO ADMITTED IN ALASKA
† ALSO ADMITTED IN CALIFORNIA

June 20, 1986

Mr. Bruce Disend
City Attorney
City of Bellingham
210 Lottie Street
Bellingham, WA 98225

Re: Briza Subdivision

Dear Bruce:

We have been retained to review the Briza subdivision matter. In this connection we have reviewed minutes of the past considerations, the plat maps and covenants, and various other background documents. Additionally, we have interviewed Jean Gorton, David Syre, Ken Hertz and Faruk Taysi to gain background information.

No requirement for public access along the internal pedestrian easements is contained in any of the preliminary plat documents that we can find. It is very apparent that the issue of whether or not there would be additional public access through the plat was very important to Trillium from a business standpoint. It made the decision to go ahead with the plat based on the full understanding that no public access would be required through the plat.

Based both on its understandings and on the preliminary plat documents, Trillium proceeded to invest over \$1,000,000 in plat improvements. It is now apparent that some citizens would like to see the concept of the plat changed at the final plat stage. We believe that there is no legal authority for this. We understand that the city is considering amendments to the preliminary plat approval. The amendments are required only to make technical corrections because the city has acquired for public use some of the property within the plat. These technical amendments do not alter the fact that for all other issues the subdivision is at final plat approval stage.

RCW 58.17.170 states that the legislative body shall approve a final plat when the proposed final plat conforms to all the terms of the preliminary plat approval and the requirements of state laws and local ordinances in effect at the time of preliminary plat approval. State subdivision law does not allow a

municipality to request additional conditions or dedications between the preliminary and final plat stages. The City of Bellingham Subdivision Ordinance (City Code Chapter 18.28) is in accord with the state law in this regard. Nothing in Bellingham's ordinances would allow the city to add new public dedication requirements at the final plat stage.

Where a preliminary plat has been approved, approval of the final plat has been described as a ministerial act. Anderson, American Law of Zoning, Section 23.14, page 73. It is inappropriate and unlawful to attempt to impose new public access requirements during such a ministerial process.

Trillium has substantially relied upon the terms of the preliminary plat approval by investing in excess of \$1,000,000 in subdivision improvements. I do not believe it is necessary to cite for you the numerous estoppel cases which prevent party from changing its position after substantial reliance by another party. The city, if it attempts to impose new public access requirements, is attempting to change its preliminary plat approval after reliance on that approval by Trillium. The city is estopped from doing so.

The record confirms that it was clear at the time of the preliminary plat approval that the internal pedestrian easements were not to be available for use by the general public. This is apparent by the very terms of Resolution number 41-1984, which was a resolution accepting the preliminary plat of Briza.

Paragraphs F.2 and F.3 reveal that a pedestrian easement from the terminus of Fairhaven Street West along the beach adjacent to the marsh and to lots 25 through 34 of the plat was intended to be an easement available to the general public. Paragraph F.3 provides:

An easement, 25 feet in width, shall be granted to the public from the terminus of Fairhaven Street West along the beach adjacent to the marsh and lots 25 through 34 to the plat's western edge. (Emphasis added.)

In contrast, paragraph F.2 discusses "internal pedestrian easements" to open space areas and provides that such internal easements shall be maintained by the community association. There is no mention of the internal pedestrian easements' being granted to the public. It was, thus, clearly understood that some of the pedestrian easements were to be public and others were not and that the internal easements currently at issue were not to be for the public.

Mr. Bruce Disend

- 3 -

June 20, 1986

The private nature of these internal pedestrian easements continued to be recognized by the City of Bellingham in its draft resolution prepared this year to amend the previous resolution to modify the plat to account for the fact that the City has acquired park lands and tidelands from Trillium Corporation. Section 7 of the proposed new resolution continues to describe the easements in question as "internal pedestrian easements" and recites that maintenance shall be the responsibility of the community association.

I have reviewed correspondence from 1983 where the question of public access to the Chuckanut Bay tidelands is discussed. The only easement for public access discussed in this correspondence speaks to the access from the terminus of Fairhaven Street along the shoreline in front of the marsh between the berm and the ordinary high water mark. There is no mention of public access through the plat. Also, exhibits were presented at the hearings on the preliminary plat where public dedications and private easements were color coded in different colors. The internal pedestrian easements now at issue were colored in these exhibits as private and not public.

In light of the evidence in the record that the easements now in question were contemplated at the time of preliminary plat approval to be internal and for lot owners only, to now require these easements to be public easements would be the imposition of a significant new requirement at the time of final plat approval. The imposition of such a requirement would be in violation of state statutes and local ordinances. Further the city is estopped from changing the terms of the preliminary plat approval after substantial reliance by the Trillium Corporation.

I would be happy to discuss this with you in more detail if you wish and hope that you will advise the city council that it is inappropriate to modify the terms of the preliminary plat approval with regard to public access easements.

Very truly yours,

Peter L. Buck

PLB:bkm

RECORDS AND PROCEEDINGS OF
THE BELLINGHAM SHORELINE COMMITTEE
JUNE 19, 1986

COMMITTEE MEMBERS PRESENT:

Georg Leshefka
Louise Bjornson
David Edelstein

PLANNING STAFF PRESENT:

Bill Hager
Vickie Matheson

VICKIE MATHESON explained that the purpose of this meeting was to clarify a misunderstanding which had arisen regarding the consideration of Shoreline Permit #172 for the drainage outfall from Briza Subdivision into the marsh located adjacent to Chuckanut Bay. The misunderstanding relates to whether the drainage easements were intended to provide public or private access to the Bay. Minutes from the original Shoreline Committee meetings were distributed.

LOUISE BJORNSON stated that she remembered the discussion about access on the beach at high tide and that the drainage easement were indicated, by the Trillium Corporation, as a way for the public to get back down to the beach if the public was forced to climb up above the bay because of high tide. The Trillium Corporation offered this alternative rather than additional easements over the western lots.

MEMBERS OF THE PUBLIC who had been present at the original Committee meetings also stated their remembrance of the meeting. It was generally the consensus that most discussion regarding public access revolved around access along the beach at high tide. Also discussed was the need for public access at this location, the impact of access on property owners, and the changes that have occurred since the original plat was approved. Members of the public presenting opinions included: Peter Mock, Iver Heinrick and Larry Williams.

JEAN GORTON representing the TRILLIUM CORPORATION stated that it has always been her clear understanding that the drainage easements were to be used as private easements for residents of the subdivision. She contended that statements made regarding members of the general public using the easement were intended as a courtesy on an emergency basis and not as a publicly dedicated easement.

GARY STURDY, Engineer for the Briza Subdivision said that it was his recollection that easements were to be private easements.

DAVID EDELSTEIN indicated that he didn't think that what people remembered was important, but rather what makes sense to do in this situation.

GEORG LESHEFKA stated that he recollected that the easements were to be for the general use of the public, but perhaps it was more appropriate to limit the use of them to residents of the subdivision.

COMMITTEE MEMBERS further discussed the need for access within the subdivision and for the general public. It was determined that the Committee would make the following recommendations:

- 1) The eastern easement should be retained for drainage and private pedestrian access for residents of the subdivision.
- 2) The western easement should be dedicated to the public for access to the beach. It should be the responsibility of the City to construct and maintain the trail.

This recommendation was based on the fact that the eastern easement serves no useful purpose for members of the general public and the western easement is across the street from an open space area, thus allowing room for on-street parking. The Committee did not feel that it should be the Homeowners Association's responsibility to construct or maintain the trail, nor should it be the lot owners' responsibility to pay property taxes on the trail.

JEAN GORTON, representing the TRILLIUM CORPORATION, stated that the Committee's recommendation seemed reasonable and that the corporation would take the recommendation under consideration, especially if the easement was only a temporary one until the City proposed upland parking is constructed. She also stated that she felt the trail would decrease the value of the property.

The SHORELINE COMMITTEE stated that they felt the easement should be a permanent one.

JEAN GORTON also stated that she hoped that if the City were to install the trail the City would be required to construct the trail within a reasonable time period and post a bond to guarantee both construction and maintenance. She further stated that she wished to reserve the right to pursue legal redress to the requirement for public access.

The Committee acknowledged her comments.

The meeting was adjourned.

VM/kc

1807N

(2)



CITY OF BELLINGHAM

JUN 23 1986

PLANNING & ECONOMIC
DEVELOPMENT

Homebuilders Association of Whatcom County

Bill Geyer, Director
210 Lottie Street
Bellingham, WA 98225

June 19, 1986

Dear Bill,

At the last Council meeting, reference was made to a covenant for parks in conjunction with the Briza project.

The Board of the HBA would very much be interested in the details of any provision attached to the Briza project dealing with parks or similar public-use covenants. Would you please provide whatever information exists regarding the referred-to covenant to this association at your earliest convenience?

Thanks Bill!

Sincerely,

Norm

Norman E. Shearer
Executive Vice President

NES/lmn

RESOLUTION NO.

26-1986

A RESOLUTION AMENDING RESOLUTION 41-1984 ACCEPTING THE PRELIMINARY PLAT OF THE BRIZA SUBDIVISION.

WHEREAS, the conveyance of a large parcel of land to the City of Bellingham has reduced the Briza Subdivision from 47 acres to 34 acres and necessitated the redesign of the Briza Subdivision, and

WHEREAS, the number of lots included in the subdivision has been reduced from 71 to 58 in number, the street layout of the original preliminary plat must be redesigned due to the reduced land area, and some of the conditions attached to the preliminary plat are no longer applicable, and

WHEREAS, pursuant to Section 18.16.070 of the City Code, the City's Technical Review Committee reviewed the redesigned subdivision, approved changes, and formulated conditions for consideration by the City Council, and

WHEREAS, the Bellingham City Council held a public hearing on June 16, 1986, concerning the amendments to the preliminary plat, NOW THEREFORE

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

That Resolution 41-1984 accepting the preliminary plat of Briza is amended to read as follows:

Section 1: Legal Description:

A. The legal description of the property shall be revised as follows indicated on Exhibit "A".

B. In addition to the above, the property to be in City ownership located south of Lots 52 to 58 shall be included in the final plat as a lot.

1742N (1)

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

Section 2: General Construction Requirements:

- A. All grading and earthwork shall be scheduled during dry summer months.
- B. All existing and remnant top soils, loose or native soils, and any existing fill shall be removed from areas where structures, driveways and roadways will be placed. After stripping the ground surface, any area to receive structural fill shall be scarified and then compacted. If the subgrade is too wet to compact, a blanket of clean, free draining coarse material shall be used as a base beneath the fill.
- C. Once the subgrade has been prepared, a development area may receive structural fill. On-site soils which do not contain organics or debris may be used for structural fill, providing that they are dried to proper moisture content. If on-site soils cannot be adequately dried, import fill shall be used. Any fill placed onto slopes greater than 5 (horizontal):1 (vertical) (20%) will require proper keying and benching.
- D. Construction traffic shall be restricted when the site is damp or wet.
- E. Neighbors shall be notified when blasting is to occur and blasting shall be limited to daylight hours.
- F. If, during construction, Indian artifacts are encountered, all work shall cease and appropriate State agencies notified.
- G. Selective clearing may be allowed upon approval by the City Public Works and Planning Departments as well as affected State agencies.

Section 3 Streets:

- A. A variance shall be granted from the maximum length for blocks, said variance based upon the topographical constraints.
- B. Variance shall be granted to the 3/4 street improvement standard for the right of way abutting the seven acre open space dedication due to planned park access to this parcel from the south.

1742N (2)

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

C. Sea Crest Road shall be improved to 28 feet in asphalt width, with concrete curb and gutter on both sides and centered in the 60 foot wide right-of-way to allow the City to exercise authority concerning proposals outside of the improved portion of the right-of-way to ensure lateral support for the street improvements.

D. The Chuckanut/Entrance Road intersection shall be modified to maximize the following objectives:

1. A 90-degree intersection with Chuckanut Drive.
2. Unobstructed sight distance.
3. A level grade at the intersection mouth.
4. A grade of less than or equal to 10% between Chuckanut and the main subdivision entrance road.

E. There shall be no vehicular access to the plat from Chuckanut Drive other than from the Entrance Road.

F. The following signs shall be installed:

1. "Stop" sign at the Chuckanut intersection.
2. "Dead End" sign for the two interior cul-de-sacs.
3. A "T" intersection sign and road name sign on Chuckanut Drive.

All signs must conform to MUTCD standards.

G. Street names will be subject to approval by the Planning Commission prior to final plat approval.

H. All easements shall be upgraded in accordance with Public Works Department standards. Pedestrian easements shall be improved to standards of Municipal Code 18.28.060.

I. The interior road providing access to the southerly portion of the subdivision presently identified as Sea Crest Court should be a publicly dedicated right-of-way, 50 feet in width, with a 24 foot wide paved surface. The remaining property between Sea Crest Road and Court should be designated as private open space with the responsibility for maintenance resting with the property owners. A slope easement across this property shall be granted to the City.

Section 4: Sanitary Sewer:

A. The location of the lift station shall be indicated on the plat. The lift shall be capable of pumping a minimum of 600 gallons per minute. The "pump lot" shall be dedicated to the City. The pump station shall include a holding well of adequate capacity to temporarily hold sewage during power outages or other emergencies.

B. All lots which will require individual sewer pumps shall be so identified on the face of the final plat. It shall also be noted that these individual sewer pumps will be privately maintained.

Section 5: Water:

A. There shall be an eight inch water main installed in Sea Crest Road and Lane.

B. The Fire Marshal may require at his discretion internal domestic fire sprinkler systems for individual homes to ensure adequate fire protection.

Section 6: Storm Water:

A. The storm water system must be designed such that all street water will be drained in the enclosed system. The system design shall detain an amount equal to ten year storm.

B. Curtain drains shall be installed in back of the curb section shall be required.

C. The storm drainage system shall be designed to maximum efficiency, minimize pollution and minimize maintenance. Drainage easements must be secured for all over land discharges and must terminate into a natural receiving channel or water body for which legal permission has been obtained.

D. All work within the jurisdiction of the Shoreline Management Master Program must first receive Shoreline approval.

Section 7: Parking/Open Space:

A. The westerly drainage/pedestrian access easement shall be dedicated to the City as a public access easement. Installation and maintenance shall be the responsibility of the City. The easement shall be 20 feet wide and shall be indicated on the face of the plat. Direct access to the beach area shall be included.

B. The easterly drainage/pedestrian access easement shall be a private easement for the use of residents of the subdivision. Installation and maintenance shall be the responsibility of the Homeowners' Association. The easement shall be 20 feet wide and shall be indicated on the face of the plat.

C. The tidelands already in City ownership and the upland 7 acre parcel to be sold to the City shall be considered to constitute the subdivision's park dedication and cluster open space requirements.

D. Two street trees per lot are required. Trees shall be of a low growing variety so as to protect views.

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

1. All footing excavations should be inspected by a geotechnical engineer prior to pouring concrete to determine if adequate bearing has been achieved.
2. Any cut and fill slopes exceeding 2 (horizontal):1 (vertical) shall be evaluated for stability by a geotechnical engineer.
3. Neighbors should be notified when blasting is to occur, and blasting could be restricted to daylight hours.
4. Individual fire sprinkler systems may be required by the Fire Marshal.
5. Each construction site shall include provisions to control erosions such as temporary setting basins, straw bales, seeding and mulching steep slopes and shielding excavations by material such as visquine.

PASSED by the Council this 23rd day of June, 1986.

Olene Rose
Council President

APPROVED by me this 3rd day of July, 1986.

Jim Douglas
Mayor

Attest: Barry Carpenter
Finance Director

Approved as to Form:

John Lewis
Office of the City Attorney

1742N (6)

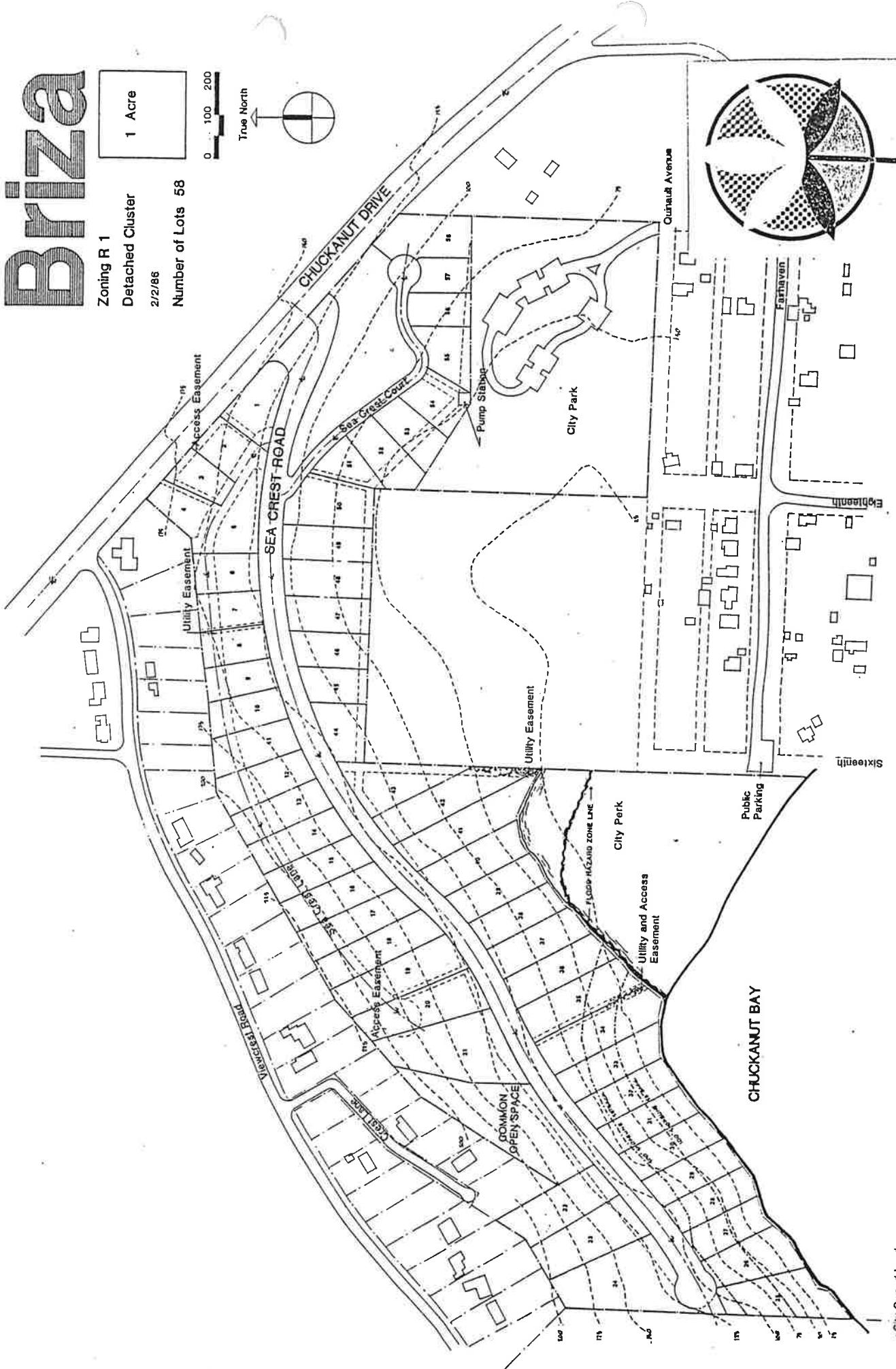
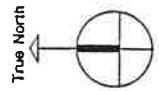
City of Bellingham
CITY ATTORNEY
210 Lottie Street
Bellingham, Washington 98225
Telephone (206) 676-6903

Briza

1 Acre
Detached Cluster
2/2/86

Number of Lots 58

0 - 100 - 200



RESOLUTION ACCEPTING THE PRELIMINARY PLAT OF BRIZA.

WHEREAS, pursuant to Chapter 18.16 of the Bellingham, City Code, Trillium Corp. and the Snelson Co., proponents for the proposed subdivision comprising approximately forty seven acres of property located southwesterly of the Chuckanut and Viewcrest Drive intersection, have made application for approval of a preliminary plat containing 71 lots, and

WHEREAS, pursuant to Section 18.16.040 of the City Code, the City's Technical Review Committee reviewed the request and did formulate conditions for consideration by the Planning Commission and City Council, and

WHEREAS, an environmental impact statement has been prepared and considered in regards to this proposal, and

WHEREAS, the Planning and Development Commission conducted public hearings on November 17, 1983 and January 23, 1984 concerning this matter and thereafter recommended to Council that the Chuckanut Bay Subdivision be accepted subject to restrictions listed on Exhibit B attached hereto, and

WHEREAS, the Bellingham City Council held a public hearing on June 18, 1984, concerning the preliminary plat, NOW THEREFORE

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

That said plat known and described as BRIZA Preliminary Plat which has been presented for acceptance is hereby accepted, approved and

0070N (1)

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

At Your Service
~~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. BRIZA Preliminary Plat is legally described as
follows:~~

A. **LEGAL DESCRIPTION:** *New legal*

PARCEL "A":

That portion of the southwest quarter of the southeast quarter, Section 12, Township 37 North, Range 2 East of W.M., lying southerly of the Chuckanut Drive and the plat of Viewcrest, an addition to the City of Bellingham, as per the map thereof, recorded in Volume 8 of Plats, Page 5, Records of Whatcom County, Washington, except the southwest quarter of the southwest quarter of the southeast quarter of said Section 12.

PARCEL "B":

Also, that portion of the southeast quarter of the southwest quarter, Section 12, Township 37 North, Range 2 East of W.M., lying southerly of the plat of Viewcrest, an addition to the City of Bellingham, as per the map thereof, recorded in Volume 8 of Plats, Page 5, Records of Whatcom County, Washington.

PARCEL "C":

Government Lot 2, Section 13, Township 37 North, Range 2 East of W.M., less roads, situate in Whatcom County, Washington.

Also all Block 116, 117, 118, 120 and the westerly 375 feet of Block 119, "Whatcom County Tide Land Appraisers' Map Of Fairhaven Tide Lands, State of Washington," a part of the consolidated City of Bellingham, as per the map thereof, recorded in Book 4 of

Plats, Page 32 & 34, in the Auditor's Office of said county and state.

EXHIBIT B: Development Conditions

B. General Construction Requirements

1. All grading and earthwork shall be scheduled during dry summer months.
2. All existing and remnant topsoils, loose or native soils, and any existing fill shall be removed from areas where structures, driveways and roadways will be placed. After stripping the ground surface, any area to receive structural fill shall be scarified and then compacted. If the subgrade is too wet to compact, a blanket of clean, free-draining coarse material shall be used as a base beneath the fill.
3. Once the subgrade has been prepared, a development area may receive structural fill. On-site soils which do not contain organics or debris may be used for structural fill, providing that they are dried to proper moisture content. If on-site soils cannot be adequately dried, import fill shall be used. Any fill placed onto slopes greater than 5 (horizontal): 1 (vertical) (20%) will require proper keying and benching.
4. Construction traffic shall be restricted when the site is damp or wet.
5. Neighbors shall be notified when blasting is to occur and blasting shall be limited to daylight hours.
6. Prior to construction an erosion control plan shall be submitted to the Public Works Department for their approval.

41-1352

The plan shall include temporary settling basins, seeding and mulching excavated slopes, and temporary shielding of excavation by material such as visquine.

7. If, during construction, indian artifacts are encountered, all work shall cease and appropriate State Agencies notified.
8. Selective clearing may be allowed upon approval by the City Public Works and Planning Departments as well as affected State agencies.

B. Streets

debt
1.

Fairhaven Street shall be improved by constructing within the existing Fairhaven and 16th Street rights-of-way, the following:

- a) A curb/barricade to effectively prohibit motorized vehicles from traveling onto the mudflats.
- b) Parking and maneuvering area for six cars.
- c) Landscaping between stalls and property line.

The construction plans must be consistent with the Shoreline Management Master Program, approved by the Shoreline Administrator, and the Public Works Department.

debt
2.

A variance is hereby granted from having to improve Quinault Street to required 3/4 City standard. The plat shall be designed such that proposed Lot 72 is designated open space and incorporated into adjacent open space areas.

3. The Chuckanut/Entrance Road intersection shall be modified to maximize the following objectives:
- (1) A 90-degree intersection with Chuckanut Drive.
 - (2) Unobstructed sight distance.
 - (3) A level grade at the intersection mouth.
 - (4) A grade of less than or equal to 10% between Chuckanut and the main subdivision entrance road.
4. A variance shall be granted from the maximum length for blocks. Said variance based upon the topographical constraints.
5. Internal streets shall be improved to 28 feet in asphalt width, with concrete curb and gutter on both sides and centered in the 60 foot wide right-of-way to allow the City to exercise authority concerning proposals outside of the improved portion of the right-of-way to ensure lateral support for the street improvements.
6. The east/west street right-of-way shall extend (but not be improved) beyond the proposed cul-de-sac to potentially serve property to the west. Lot lines will have to be altered to accommodate this change.
7. The internal intersection also shall be realigned similar to the Chuckanut/Entrance Road intersection described in (B-3).
8. The north/south street shall not exceed 14% grade; for as limited a distance as possible.

9 The termination of the interior road at Quinault shall include a paved turn-around including curb and gutter.

10. There shall be no vehicular access to the plat from Chuckanut Drive other than from the entrance road.

11. The following signs shall be installed.

(1) "Stop" sign at the Chuckanut intersection.

(2) "Dead End" sign for the two interior cul-de-sacs.

(3) A "T" intersection sign and road-name sign on Chuckanut Drive.

All signs must conform to MUTCD standards.

12. Street names will be subject to City approval at the time of final plat approval.

13. All easements shall be up-graded in accordance with Public Works Department standards.

C. Sanitary Sewer

1. Only one liftstation shall be permitted, to be located at the southeast corner of the plat adjacent to Quinault Street. The lift shall be capable of pumping a minimum of 600 gallons per minute. The "pump lot" shall be dedicated to the city. The pump station shall include a holding well of adequate capacity to temporarily hold sewage during power outages or other emergencies..

2. All lots which will require individual sewer pumps shall be so identified on the face of the final plat. It shall also be noted that these individual sewer pumps will be privately maintained.

D. Water

1. The 6 inch water system shall be looped at Fairhaven Street via 20th Street and at Crest Lane. An easement over private property must be obtained to facilitate the loop to Crest Lane.
2. If the loop to the Crest Lane service can not be provided, the water system shall be upgraded to an 8 inch line and shall nevertheless be looped at Fairhaven Street. Sufficient fire flow must be generated (500 g.p.m.).
3. The Fire Marshal may require at his discretion internal domestic fire sprinkler systems for individual homes to ensure adequate fire protection.

E. Storm Water

1. The storm water system must be designed such that all street water will be drained in the enclosed system. The system design shall detain an amount equal to ten year storm.
2. Curtain drains shall be installed in back of the curb section shall be required.
3. The storm drainage system shall be designed to maximum efficiency, minimize pollution and minimize maintenance. Drainage easements must be secured for all over-land discharges and must terminate into a natural receiving

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

channel or water body for which legal permission has been obtained.

The plan shall be modified such that the drainage avoids private property by being extended to the Quinault Street right-of-way and ditched westward to the marsh area. *check*

4. All work within the jurisdiction of the Shoreline Management Master Program must first receive shoreline approval.

F. Park/Open Space

1. All open space areas shall be privately owned and maintained and governed by a community home owners association agreement. Said agreement shall be approved by the City prior to recording and shall provide adequate assurance that the marsh area shall remain a natural area and be protected from filling.
2. Internal pedestrian easements leading to open space areas shall be improved to facilitate access. Maintenance shall be the responsibility of the association.

3.

check 3. Dedication m/s open space requirements
In the event the City is unsuccessful in its attempts to purchase the tideflat areas as proposed in Resolution _____-1984, an easement, 25 feet in width, shall be granted to the public from the terminus of Fairhaven Street west along the beach adjacent the marsh and Lots 25 - 34 to the plat's western edge. Said easement shall be granted prior to or coincidental with platting of lots abutting the shoreline area. The easement shall be limited for access only and use of the easement by the general public shall be limited to daylight hours. A sign identifying the

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

54-1950

easement and specifying the limitations shall be erected in a visible location near the Fairhaven Street terminus.

G Restrictive Covenants

Prior to final plat approval covenants shall be submitted to the Planning Department for approval. The covenants shall state that future building permits for single family home construction shall implement the following to be enforced by appropriate city agencies:

1. All footing excavations should be inspected by a geotechnical engineer prior to pouring concrete to determine if adequate bearing has been achieved.
2. Any cut and fill slopes, exceeding 2 (horizontal): 1 (vertical) shall be evaluated for stability by a geotechnical engineer.
3. Neighbors should be notified when blasting is to occur, and blasting could be restricted to daylight hours.
4. Individual fire sprinkler systems may be required by the Fire Marshal.
5. Each construction site shall include provisions to control erosion such as temporary setting basins, straw bales, seeding and mulching steep slopes and shielding excavations by material such as visquine.

Passed by the Council this _____ day of _____, 1984.

Council President

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

41-173
Approved by me this 21st day of June, 1984.
Bruce Rose
Mayor Pro Tem

Attest: D.X. Hoffman
Finance Director

Approved as to form:
John Lee
Office of the City Attorney

Published: _____

0070N (10)

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

RCW 197-11-960 Adoption notice.

ADOPTION OF EXISTING ENVIRONMENTAL DOCUMENT

Adoption for (check appropriate box) DNS EIS other _____

Description of current proposal AMENDMENT TO PRELIMINARY PLAT for the Briza Subdivision (Chuckanut Bay) to reduce the number of lots and relocate streets. The amendment makes allowance to change the legal description to reflect the transference of property from the Trillium Corporation to the City of Bellingham.
Proponent Trillium Corporation

Location of current proposal Northeast shore of Chuckanut Bay. West of Chuckanut Drive and south of Viewcrest Drive.

Title of document being adopted Environmental Impact Statement for Chuckanut Bay Subdivision

Agency that prepared document being adopted City of Bellingham

Date adopted document was prepared January, 1984

Description of document (or portion) being adopted EIS

If the document being adopted has been challenged (197-11-630), please describe:

Not Applicable

The document is available to be read at (place/time) Office of Planning & Economic Development, City of Bellingham, 210 Lottie

We have identified and adopted this document as being appropriate for this proposal after independent review. The document meets our environmental review needs for the current proposal and will accompany the proposal to the decisionmaker.

Name of agency adopting document City of Bellingham

Contact person, if other than responsible official Vickie Matheson Phone 676-6982

Responsible official William T. Geyer

Position/title Director, Planning & Economic Development Phone 676-6982

Address 210 Lottie Street, Bellingham, WA 98225

Date 6-13-86 Signature William T. Geyer



PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT

William T. Geyer, Director
(206) 676-6982

City Hall • 210 Lottie • Bellingham, Washington 98225

June 13, 1986

M E M O R A N D U M

TO: Planning Commission

FROM: William T. Geyer, Director

RE: Briza Street Names

WTG

As you know the Planning Commission is charged with naming streets within the City of Bellingham. When the Preliminary Plat for the Briza Subdivision was submitted, no street names were identified. As the Briza development nears the final plat stage, it is necessary for street names to be assigned. Please find attached the Briza Plat with street names suggested by the developer. The proposed names have also been sent to necessary public service agencies. The only comments received were as follows:

Sea Crest Road and Sea Crest Court are very similar sounding (Fire Department)

Roads generally are assigned in the County, whereas City's rights of way are usually streets (Emergency Services)

VM/jo

Attachment

Suggested Street and Park Names
With a Brief History on Each

Bloedel: (Julius) Bloedel-Donovan Park named after him; Partner in the Bloedel-Donovan Lumber Company.

Cissna: (Charles) Businessman in the early 1890's. Built department store known as "The Fair", founded a home securities bank at Bay and Holly Streets. During the depression of the 90's he issued artificial/local currency called "Cissna Script".

De Mattos: (J.P.) Mayor of Whatcom, then New Whatcom in 1898, finally of Bellingham in 1914.

Diehl: (Hugh) Pioneer Ford Dealer, 1908.

Dobbs: (Beverly Bennett) Pioneer family in Bellingham. He was a pioneer photographer. Went to Alaska (Nome) and took the first motion pictures of Alaskan life. Then took these pictures around the world. He became famous for this.

Downs: (M.E.) Superintendent of the Blue Canyon Coal Co.

Ella: (Ella Higginson) Well known northwest writer. At the turn of the century wrote column in the Seattle Times; wrote famous poem "4-Leaf Clover" and also made two trips to Alaska where she wrote books about Alaskan life.

Engberg: (Henry) Basically he owned a drugstore in Fairhaven in 1890; the actual person to be honored is his wife who was a famous violinist and who conducted the Bellingham Symphony Orchestra and then went to Seattle where she conducted the Seattle Symphony Orchestra. Henry was the founder of the Mt. Baker marathon race.

Fouts: (William) Primarily the owner of a general store at "D" and Astor Streets in Bellingham. An early pioneer in the 1870's. Was also first superintendent of Whatcom County schools. His daughter Clara Fouts married John Stenger.

Gamwell: Pioneer Fairhavenite; came in 1889 and was a member of the Park Board and at the turn of the century established Elizabeth Park, then called "Gamwell's Folly".

Geri: (Frank) Founder of Recreational Program - City of Bellingham.

Gillette: County Commissioner 1895; called the father of "good roads" in Whatcom County. Head of the Fairhaven Water Department until the system was taken over by the City of Bellingham.

Gulbraith: (Harvey) The Gulbraiths were a very large pioneer family from Acme, Washington. Joe Gulbraith won the Mt. Baker marathon race in 1911 by way of the Deming Trail.

Haggard: (Harvey) Winner of the 1912 Mt. Baker marathon race.

Hegg: Pioneer photographer and well known today for his photos on the Klondike Gold Strike.

Huntoon: (Berton W.) Was a civil engineer in Fairhaven, helped lay down the plan of the town of Fairhaven. Was general superintendent of the Pacific American Cannery in 1901 - promoted the building of Chuckanut Drive scenic route; promoted the Mt. Baker Development Company and built the original Mt. Baker Lodge. Also road up Sehome Hill (Huntoon's Drive).

~~Jones~~¹⁹⁶⁸: (Regan) Noted for establishing the first television station in Bellingham.

Keeler: (Sam) First Post Master of Fairhaven.

~~Kellogg~~: (George A.) An attorney who built a home in Old Bellingham (southside). Son John was also an attorney and former Mayor of Bellingham.

Loft: (Peter) Superintendent of construction for the street car system; he had two well known sons. Henry Loft was Whatcom County Clerk for many years and Andrew Loft of Mt. Vernon was the manager of the Puget Sound Power and Light Company.

Lind: (Charles) Well known local sidewalk builder and contractor in Bellingham.

Larson: (Peter) One of the partners in the Bloedel-Donovan Lumber Company and was the partner with the most capital to invest. He also was a contractor with the Northern Pacific Railroad and first worked here in the Blue Canyon Coal Company - which he bought from Wardner. He later built a Railroad line from Fairhaven to Wickersham (the Bellingham Bay and Eastern Railroad). A small settlement in the Silverbeach area called "Larson" was named after him (at the turn of the century).

Lelah: (Lelah Jackson Edson) Wrote book called the "Fourth Corner", a history of Whatcom County and Bellingham in 1958.

Loggie: Very large and old pioneer family of Bellingham. The family was involved in numerous industries in the area. Helen Loggie is a famous artist from the family.

Marsh: (Jack J.) Served on City Fire Department for 25 years. Chief of Fire Department from 1-18-10 to 1-8-14.

Street and Park Names

(Continued)

Morse: Morse Hardware, established in 1884.

Mathes: First president of Western Washington State College. Mathes Hall named after him. Also Mayor of Bellingham and also established the Avalon Theatre, a motion picture house.

Morrison: Lumber company in Bellingham, Blaine and Anacortes.

Onffroy: (Roland) Founder of the Pacific American Fisheries in 1899.

Poe: (A.M.) Government surveyor; lived at Deadman's Point (then called Poe's Point) and now changed to Post Point.

*Pickett: (Capt. George) Biggest contribution was that he married an Indian woman, Morning Mist; they had a son who became a very famous artist.

*Pattle: Dug the first coal out of the area at 11th and State.

Purdy: Well known local businessman; originator of Graves and Purdy firm; which then became Bellingham National Bank which is now Seattle First National Bank.

Richards: Built and was one of the owners of the oldest brick building in Bellingham (now Base Camp).

Roth: Owned Chuckanut Stone Quarry. Married Lottie Roeder - Henry Roeder's only daughter - who wrote the county's history.

Sandison: Pioneer photographer and most well known for the outstanding historical photos he took. In 1912, he took the first aerial views of Bellingham from a hot air balloon.

Slade: (Tom) Early businessman; former Mayor of Bellingham.

Stangroom: Superintendent of the Bellingham Bay and British Columbia Railroad when it was being constructed. He worked for the Bellingham Bay Improvement Company.

Stearns: Former Fire Chief (to be checked).

Stenger: (John) Came from Seattle and ran the Colony Mill; resided at the site of the Post Office today. Built the Bellingham Hotel at "B" and Holly Streets. The Hotel also housed the Bellingham Opera House (Bellingham Theatre).

Street and Park Names

(Continued)

Tarte: A very old family in Bellingham with many, many members. Early coal miner in Sehome.

Teck: (Carlton Frank) Newspaper man; aided Lottie Roeder in producing the 2-volume Whatcom County History in 1926.

Train: (George Francis) Fastest trip around the world in 1890.

Visscher: First editor of the Fairhaven Herald. Well known author, poet and writer coming from Chicago in 1890 to edit the Fairhaven Herald (now Bellingham Herald).

Wardner: (James F.) Mining man; came to Fairhaven in 1889 and established bank, sawmill and bought and sold the Blue Canyon Coal Company. Built Wardner's castle in the southside of Bellingham.

Welsh: Pioneered the salmon canning industry in 1905 and 1906 at Deadman's Point.

Woods: (Fred) Built the E.K. Wood Lumber Co. Mill circa turn of the century. It burned down in 1926 - Boulevard Park Site.



FINANCE DEPARTMENT, 210 LOTTIE ST., BELLINGHAM, WASHINGTON 98225
Telephone: (206) 676-6900

NOTICE OF PUBLIC HEARING

Notice is hereby given that the BELLINGHAM CITY COUNCIL will hold a public hearing on MONDAY, JUNE 16, 1986; at 7:00 P.M., in the City Council Chambers, City Hall, 210 Lottie Street, Bellingham, Washington, for the purpose of considering the following:

Consideration of an amendment to the Preliminary Plat for the Briza Subdivision.
The amendment reduces the number of lots from 71 to 58 and slightly relocates proposed streets. The site is generally located west of Chuckanut Drive and south of Viewcrest Drive. Lengthy legal description. Residential Single, Cluster designation. Edgemoor Neighborhood. Snelson Company and Trillium Corporation applicants.

Anyone wishing to comment in favor of, or in objection to the proposal is invited to attend, or if unable to attend, to present your comments in writing to the Finance Office prior to the hearing date.

Additional information is available in the Department of Planning and Economic Development, City Hall.

City of Bellingham
Publish: 06/06/86

NOTICE OF PUBLIC HEARING

Notice is hereby given that the Bellingham ~~Planning and Development~~
~~Commission~~ will hold public hearings on June 16, 1986, at 7:30 P.M. in the
City Council Chambers, City Hall, 210 Lottie Street, Bellingham, Washington
for the purpose of considering the following:

Consideration of an amendment to the Preliminary Plat for the
Briza Subdivision. The amendment reduces the number of lots from 71 to 58
and slightly relocates proposed streets. The site is generally located
west of Chuckanut Drive and south of Viewcrest Drive. Lengthy legal
description. Residential Single, Cluster designation. Edgemoor
Neighborhood. Snelson Company and Trillium Corporation applicants.

Anyone wishing to comment in favor of or in objection to the proposals is
invited to attend.

Additional information is available at the Office of Planning and
Development, City Hall.

William T. Geyer, Director
Planning & Economic Development

Robert V. Walston
585 Chuckanut Dr.
Bellingham, WA 98225

Harbor Lands Co.
405 Fieldstone
Bellingham, WA 98225

Robert Urso
104 Viewcrest Rd.
Bellingham, WA 98225

June McLeod
171 Deerfield Ln.
Matawan, NJ 07747

Ann C. Jones
354 Viewcrest Rd.
Bellingham, WA 98225

Michael R. Seal
112 Viewcrest Rd.
Bellingham, WA 98225

Samuel Henley
611 Chuckanut Dr.
Bellingham, WA 98225

Darrell Kapp
350 Viewcrest Rd.
Bellingham, WA 98225

Frances Severn
116 Viewcrest
Bellingham, WA 98225

Lewis G. Gerner
608 Chuckanut Dr.
Bellingham, WA 98225

Kevin Kemplin
1126 14th St., #1
Bellingham, WA 98225

Darell Borders
120 Viewcrest Rd.
Bellingham, WA 98225

C.R. Sahlin
4395 Curtis Road
Bellingham, WA 98226

Gary Newell
115 Viewcrest Rd.
Bellingham, WA 98225

Lillie Montgomery
1126 14th St. #1
Bellingham, WA 98225

F.D. Smith
720 11th Street
Bellingham, WA 98225

LeRoy Dresbeck
111 Viewcrest Rd.
Bellingham, WA 98225

A.L. Garries
132 Viewcrest Rd.
Bellingham, WA 98225

F.D. Smith
2969 Plymouth Dr.
Bellingham, WA 98226

Richard Stretch
P.O. Box 74
Metaline, WA 99152

Robert P. Gibb
204 Viewcrest Rd.
Bellingham, WA 98225

R.E. Hemingway
c/o 4395 Curtis Road
Bellingham, WA 98225

Philip B. Raiguel
101 Viewcrest Rd.
Bellingham, WA 98225

Day A. Hedberg
212 Viewcrest Rd.
Bellingham, WA 98225

Iver Heinrich
1701 Fairhaven
Bellingham, WA 98225

Ethel E. Johnson
102 Viewcrest Rd.
Bellingham, WA 98225

Charles H. Hurlbut, Jr.
216 Viewcrest Rd.
Bellingham, WA 98225

Robert Embrey
218 Viewcrest Rd.
Bellingham, WA 98225

Donald Montgomery
1129 14th St.
Bellingham, WA 98225

William D. Hansen
340 Viewcrest Rd.
Bellingham, WA 98225

William Hatch
224 Viewcrest Rd.
Bellingham, WA 98225

Reed Merrill
316 Crest Ln.
Bellingham, WA 98225

Frank B. Hanna
2926 Cedarwood Ave.
Bellingham, WA 98225

Louise Olsen
228 Viewcrest Rd.
Bellingham, WA 98225

Dow Smith
320 Viewcrest Rd.
Bellingham, WA 98225

Peter Mock
Andrea Kase
1705 S. Fairhaven Ave.
Bellingham, WA 98225

Gotthard R. Pearson
266 Cove Rd.
Bellingham, WA 98225

Richard Atneosen
320 Crest Ln.
Bellingham, WA 98225

Philip Martin
1711 Fairhaven
Bellingham, WA 98225

Joseph Molnar
239 Australian Ave.
Palm Beach, CA 33480

Dennis Broustein
Shei Rego
324 Viewcrest Rd.
Bellingham, WA 98225

Rose Marie-Anna Harris
1717 Fairhaven Ave.
Bellingham, WA 98225

Jack McLellan
P.O. Box 158
Edmonds, WA 98020

Robert Davidson
328 Viewcrest Rd.
Bellingham, WA 98225

Leo Eustler
3642 Oxford St.
Vancouver, BC V5K 1P3

Glen Green
308 Viewcrest Rd.
Bellingham, WA 98225

Vern Larson
332 Viewcrest Rd.
Bellingham, WA 98225

Matthew Smitham
311 N. Forest
Bellingham, WA 98225

Clarence Milne
308 Crest Ln.
Bellingham, -WA 98225

Archie Fox
336 Viewcrest
Bellingham, WA 98225

David Mason
512 N. State St.
Bellingham, WA 98225

Elmer Eid
312 Viewcrest Rd.
Bellingham, WA 98225

Nicholas Lidstone
338 Viewcrest Rd.
Bellingham, WA 98225

Katherene A. Engels
1900 Quinault Ave.
Bellingham, WA 98225

Mardi Chase
Philip Banko
1920 Quinault Ave.
Bellingham, WA 98225

J. Lavere Shaffer
851 Chuckanut Rd.
Bellingham, WA 98226

Gail Bodenmiller
Cuckanut Community Church
Fairhaven & 20th St.
Bellingham, WA 98225

Allan L. Buehler
3514 Chuckanut Ave.
Bellingham, WA 98225

George Brown, Jr.
1913 Fairhaven Ave.
Bellingham, WA 98225

Ann C. Jones
354 Viewcrest Rd.
Bellingham, WA 98225

Hazel Brown
3173 Sunset Way
Bellingham, WA 98226

The Trillium Corporation
4183 Meridian
Bellingham, WA 98226

David Mason
512 N. State St.
Bellingham, WA 98225

Leonard & Boudinot, Inc.
P.O. Box 327
Burlington, WA 98233

Burton G. Baxter
1718 Rainier Ave.
Bellingham, WA 98225

Snelson Company
601 W. State St.
Sedro Woolley, WA 98284

Leon Curtis
3823 Thornwood Dr.
Sacramento, CA 95821

Zane Engles
2720 Yew Street
Bellingham, WA 98225

James Shelley
1521 Rainier Ave.
Bellingham, WA 98225



PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT

William T. Geyer, Director
(206) 676-6982

City Hall • 210 Lottie • Bellingham, Washington 98225

May 27, 1986

Jean Gorton, Vice President
Trillium Corporation
4183 Meridian
Bellingham, WA 98226

RE: Briza Subdivision Resolution

Dear Jean,

In reviewing the material to submit to City Council for the public hearing to amend the Briza Subdivision Resolution, I notice that we do not have an updated list of adjacent property owners. In order to properly meet legal notice requirements, we will need a list of all property owners within 300 feet of the subdivision boundaries. If you could provide this information to us by Monday, June 2, 1986, the hearing could be scheduled on the June 16th Council agenda. Thanks.

Sincerely,

Vickie D. Matheson

Vickie D. Matheson
Development Planner

VDM/jo



PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT

Fire
William T. Geyer, Director
(206) 676-6982

City Hall • 210 Lottie • Bellingham, Washington 98225

May 16, 1986

M E M O R A N D U M

TO: Concerned Parties
FROM: Vickie Matheson, Development Planner VM
RE: Briza Subdivision Street Names

Please find attached the proposed street names for the new Briza Subdivision. Please review these names and submit any comments you might have to this office by May 26, 1986. Thank you.

VDM/jo

Attachment

Beth Clark

Please review & comment -
return to office by Friday
5/23

DATE: 5/20

B.C. 1 GRH - Names could be confusing, they sound similar to other street names.

B.C. 2 RM, Names OK, How will it be numbered?

B.C. 3 DAB



The Trillium Corporation

4183 Meridian Street
Bellingham, Wa. 98226
(206) 676-9400

CITY OF BELLINGHAM

MAY 19 1986

PLANNING & ECONOMIC

May 16, 1986

Vicki Matheson, Planner
Office of Planning and Economic Development
City of Bellingham
210 Lottie Street
Bellingham, Wa. 98225

Dear Vicki:

Enclosed is a copy of the slightly revised C, C & R's for Briza. Section 2.3 has been changed to cover the alley serving lots 1 through 4, rather than lots 52 through 58 which are now on a dedicated city street.

Other changes include:

Section 4.2 (1) - Lot 42's rear property line is not adjacent to the marsh.

Section 5.2 - The Design Review Committee shall have 15 days rather than 30 to review plans.

Section 6.4 (d) - Interest on Homeowners Assossiation delinquent Assessments is increased from 8% to 12%.

A few typographical errors were also corrected.

I look forward to receiving your letter on the final plat process and "to do" list.

Sincerely,


Jean Gorton
Vice President

JG/lm

Enclosure

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
OF THE PLAT OF "BRIZA"A. RECITALS.

This Declaration is made with reference to the following facts and conditions:

1. The undersigned Declarant is the owner in fee simple of the following described real estate property in Whatcom County, Washington:

THE PLAT OF BRIZA, CITY OF BELLINGHAM, COUNTY OF WHATCOM,
STATE OF WASHINGTON.

2. Declarant intends to ensure that construction of single-family homes within this subdivision is in conformance with the requirements and restrictions of the June 18, 1984, City of Bellingham Resolution accepting the Preliminary Plat hereof; and

3. Declarant desires to provide the means to enforce the rights, reservations, easements, liens and charges provided in this Declaration, and for necessary maintenance and to provide for a community organization consisting of a non-profit community Association that includes as members those who purchase any lot, tract or parcel within this subdivision.

B. DECLARATION.

The Declarant hereby certifies and declares that the following conditions, covenants and restrictions shall endure and be binding upon the respective owners of each lot, and further declares that all of the property within the Plat of Chuckanut Bay described herein is held, and shall be held, conveyed, encumbered, leased, rented, used, occupied and improved subject to the following limitations, restrictions, conditions and covenants for the purpose of enhancing and protecting the value, desirability and attractiveness of the subdivision and every part thereof. All of the following limitations, restrictions, conditions and covenants shall run with the land and shall be binding on all parties having or acquiring any right, title or interest in the subdivision or any part thereof.

1. LAND CLASSIFICATION AND DEFINITIONS.

The following words and classifications of land shall have the following meanings under this agreement.

1.1 Lot: Any parcel of real property within the boundaries of the subdivision identified by Arabic numerals and designated for the location and construction of a single-family residence.

1.2 Owner: Any person, firm or corporation holding either fee title or a vendee's interest under a real estate contract as shown by the records of Whatcom County, Washington, to the exclusion of any lessor's interest.

1.3 Person: Any individual, firm, corporation, partnership, association, unincorporated association or organization, or political subdivision thereof.

1.4 Declarant: Declarant is The Trillium Corporation, its successors and any assigns engaged in land development and/or wholesale land sale activities in Whatcom County, Washington, or some portion thereof.

1.5 Common Properties: Real property owned by the Association or dedicated on the face of the Plat map for common use and enjoyment of the lot owners and members of the Association, including all roads, paths and walkways.

1.6 Annual Charge: The sum of (1) the yearly assessment against the assessable property; (2) the interest on any delinquent charges imposed; (3) the cost of any maintenance or repair work required to be performed by the owner but not so performed and performed instead by the Association; and (4) the cost of enforcing the lien imposed hereunder upon such assessable property.

1.7 Assessable Property: Each individual lot, together with any easement or common area which may be assessed for taxes by the City of Bellingham or its successor in interest.

1.8 Improvements: Improvements shall mean and include, without limitation, buildings, out-buildings, roads, driveways, parking areas, fencing, retaining walls, swimming pools, screening, walls, ornamentation, signs, stairs, decks, hedges, wind breaks, plantings, planted trees, shrubs, poles, lighting, hot tubs and all other structures or landscaping.

1.9 Resident: (1) each person lawfully residing on or in any part of the assessable property; and (2) members of the immediate family of each such person actually living in the same household with such person.

1.10 Board: The Board of Trustees, Board of Directors, or other governing body of the Association.

2. RESERVATIONS

2.1 Reservation of Easements. Easements for drainage, sewers, water pipes and utilities, facilities and service (including but not limited to water supply, electricity, gas, telephone, television) are hereby reserved over, under, upon, in and through all roadways and walkways, and over, under, upon and through certain portions of lots, tracts or parcels as shown on the Final Plat map of said Plat in which to install, lay, construct, repair, renew, operate, maintain and inspect underground pipes, sewers, conduits, cables, wires and all necessary facilities and equipment for the purpose of serving said Plat, together with the right to enter upon said easement areas, lots, tracts, parcels, roads and walkways for or pertaining to the aforesaid. This reservation of easement is for the benefit of Declarant and its successors in interest, the City of Bellingham, Puget Power, Cascade Gas, Northwest Bell, Nationwide Cablevision.

2.2 Reservation of Alley Serving Lots 5 through 21. The interior road or

alley serving Lots 5 through 21 of this Plat and accessing the main access road of this Plat east of Lot 5 shall be conveyed by the Declarant in trust to the Community Association and held by the Community Association for the benefit of Lots 5 through 21 as set forth below. The conveyance is to be made when the alley has been accepted as completed by the City of Bellingham Engineering Department and after the Association has come into existence. Upon conveyance of the alley to the Community Association, each of Lots 5 through 21 shall share equally in the cost of maintenance and repair of this alley. The Community Association hereinafter established shall be responsible for collecting assessments from these lots for this purpose.

2.3 Reservation of Alley for Serving Lots 1 through 4. The interior road or alley serving Lots 1 through 4 of this Plat and accessing the main access road of this Plat east of Lot 5 and between Lots 1 and 2 shall be conveyed by the Declarant in trust to the Community Association and held by the Community Association for the benefit of Lots 1 through 4 as set forth below. The conveyance is to be made when the alley has been accepted as completed by the City of Bellingham Engineering Department and after the Association has come into existence. Upon conveyance of the alley to the Community Association, each of lots 1 through 4 shall share equally in the cost of maintenance and repair of this alley. Further, Lots 1 through 4 shall jointly participate as one lot in the cost of maintenance and repair of the primary alley (Sea Crest Lane) as referenced in Section 2.2. above. The Community Association hereinafter established shall be responsible for collecting assessments from these lots for this purpose.

2.4 Reservation of Pedestrian Walkways. All pedestrian walkways shown on said Plat shall be improved to facilitate pedestrian access. Declarant agrees to convey these pedestrian walkways to the Association after improvements are completed and the Association comes into existence. Upon conveyance of such internal pedestrian easements leading to open space areas, the Community Association shall thereafter be responsible for the maintenance and upkeep of such internal pedestrian walkways.

2.5 Reservation of Common Open Space. All areas identified on the face of this Plat as common open space are hereby conveyed to the Community Association, and the Community Association shall be responsible for the maintenance and upkeep of the common open space. The Community Association shall assess each lot an equal portion for any maintenance and upkeep associated with the common open space area or areas, including, but not limited to, costs associated with brush control, trash removal and weed control.

2.6 Reservation of Drainage Easements and the Right to Drain. The Declarant hereby reserves the right to drain all roadways, walkways, easement ways and areas over and across any lot or lots, blocks, tracts and parcels where water might take a natural course after the grading thereof. The two drainage easements designated within this Plat and acting as biofilters between the storm drain outfalls and the marsh shall be maintained as meandering grass lined swales. These easements are conveyed to the Community Association, and the Community Association shall be responsible for the maintenance of the swales, including regular cleaning to remove sediments, and the replanting of grass and the placement of new rock as necessary to ensure effective operation.

2.7 Sales Office. The Declarant reserves the right to maintain a sales office on a lot to be designated by the Declarant within this Plat for the purpose of selling and re-selling lots within this Plat; provided, that the sales activity shall be limited to the sale or resale of lots within this Plat. Declarant reserves the right to place and maintain "for sale" signs on any lot within the said Plat as may be prepared and erected by the Declarant.

3. GENERAL USE RESTRICTIONS AND REQUIREMENTS.

3.1 All lots within the subdivision shall be used exclusively for permanent residential purposes.

3.2 All boats, utility trailers, trucks of more than one-ton capacity, campers, travel trailers, motorhomes and similar items or vehicles, shall not be operated, maintained or kept upon any lot or parking area, but shall at all times be enclosed in a garage or otherwise hidden from view; provided, that out-of-county guests of an owner may, with the owner's permission, park a recreational vehicle or travel trailer on the owner's lot and completely off the street for up to four (4) weeks.

3.3 No firearms, fireworks or explosives shall be discharged within the boundaries of the subdivision.

3.4 No animals, livestock or poultry of any kind shall be raised, bred or kept on any lot, except dogs, cats or other house-hold pets may be kept, provided they are not kept, bred or maintained for commercial purposes.

3.5 No signs or billboards shall be placed upon any lot except that one identification sign bearing the owner's name may be placed upon the owner's lot. Nevertheless, the Declarant may display post signs, billboards and other advertising materials in or about any unsold lots until all lots in the subdivision have been sold by Declarant, and Declarant may subsequently advertise the property for sale.

3.6 No lot owner shall deposit or permit the accumulation of any trash, ashes, garbage or other refuse or debris on or about the subdivision, but shall deposit same in covered trash receptacles.

3.7 No outside incinerators or other equipment for the disposal of rubbish, trash, garbage or other waste material shall be used within the subdivision, with the exception that covered compost heaps may be maintained according to conditions of 3.8.

3.8 Each lot owner shall keep his lot neat and orderly in appearance, and shall not cause or permit any noxious, odorous or tangible objects which are unsightly in appearance to exist on the premises.

3.9 All automobiles and all other permitted vehicles, if kept or parked on any lot, shall be in good order and working condition. Partially wrecked vehicles, discarded vehicles or vehicles which are in a state of disrepair shall not be kept on any lot, unless enclosed in a garage or otherwise completely hidden from view.

3.10 No television or radio antennas of any kind which extend more than ten (10) feet above the roofline of the residence shall be permitted on any lot or structure nor shall any satellite or "dish" antennas be permitted on any lot or structure.

3.11 Further subdivision of lots is hereby prohibited except (1) where lots of equivalent or larger size are created; or (2) if area is exchanged between adjoining lots without the creation of an additional lot.

3.12 Boundary line fences may be erected and maintained from the rear corner line of the main structure and extending toward the rear of the lot. No boundary line fences extending forward and toward the street from the rear corner line of the main structure shall be permitted except those composed of living materials only, such as hedges, shrubs or trees. Boundary line fences composed of "cyclone" type fencing materials, wire mesh or wire of any kind shall be prohibited. For lots accessed by alleys, front yard is defined as that part of the yard between Sea Crest Road and the nearest plane of the main structure.

3.13 In order that existing views from individual lots may be protected to the extent practicable, no trees or shrubs may be planted which are capable of attaining a height of thirty (30) feet or more upon maturity, unless planted to replace a similar tree or shrub which existed at the time of original conveyance of the lot on which the tree is planted.

4. CONSTRUCTION

4.1 Time for Completion. Construction of all buildings shall be prosecuted diligently from commencement of work until the exterior is completed and painted and all sanitation and health requirements have been fulfilled. The maximum time limit for the completion of the building shall be twelve (12) months from the date construction commences, which is defined as the date building materials are first delivered to the property. Construction shall not be deemed completed until the lawn (bark or ground cover) and shrubs have been properly seeded and the lot has been cleaned up, rendered free of debris and placed in reasonable condition.

4.2 Construction Requirements. All single-family home construction within this Plat is subject to the following provisions and restrictions, to be enforced by appropriate City agencies:

(a) All footing excavations must be inspected by a geotechnical engineer prior to pouring concrete to determine if adequate bearing has been achieved.

(b) Any cut and fill slopes exceeding 2 (horizontal):1 (vertical) must be evaluated for stability by a geotechnical engineer.

(c) Neighbors must be notified when blasting is to occur, and blasting shall be restricted to daylight hours.

(d) Individual fire sprinkler systems may be required by the fire marshall.

(e) Provisions shall be made at each construction site to control erosion, such as temporary settling basins, straw bales, seeding, mulching steep slopes and shielding excavations through the use of material such as visquine.

(f) Lots 35 through 41 shall have a 50 foot building set back from the rear property line adjacent to the marsh. This area shall be maintained with vegetative materials and no filling or grading shall occur.

4.3 Height Restrictions. Height of structures erected on lots shall be restricted as follows or pursuant to the terms of any applicable City ordinance provision in effect at the time of application for a building permit, whichever is more stringent.

(a) No structure shall exceed thirty five (35) feet under height definition #1 or twenty (20) feet under height definition #2.

Definition #1: The verticle distance from the average finished grade to the average height of the highest gable of a pitch or hip roof;

Definition #2: The verticle distance measured from the highest point on the building site to the average elevation of the highest gable of a pitch or hip roof.

5. DESIGN REVIEW COMMITTEE.

5.1 General. Design review and control shall be accomplished by a Design Review Committee, which shall be composed of one owner's representative, one architect, one engineer, and two lot owners, and/or such person as they or the Declaration shall designate in writing. Fees for participation by the designated architect and engineer shall be paid by the lot owners submitting plans for review. No fees shall be charged by the Declarant or other lot owners. No building shall be erected, placed or altered on any lot until the construction plans, specifications and plans showing the location of the structure have been approved by the Committee as to the quality of materials, harmony of external design with existing structures, and location with respect to topography and finished grade elevation.

5.2 Approval/Disapproval. The Committee shall approve or disapprove plans, specifications, and details, including specified color finish, within fifteen (15) days following receipt. Plans, specifications and details which are not approved or disapproved within fifteen (15) days shall be deemed approved as submitted. Two (2) sets of plans, specifications, and details, including exterior color finish must be submitted. One (1) such set shall be returned to the person submitting them with the approval or disapproval endorsed on them. The other copy shall be retained by the Committee for its permanent files.

The Committee shall have the right to disapprove any plans, specifications or details in the event the same are not in accordance with all the provisions of this Declaration, if the design or color scheme of the proposed building or other structure is not in harmony with the general surroundings of such lots

or with the adjacent buildings or structures, if the plans and specifications are incomplete, or in the event the Committee decides that the plans, specifications, details or any part of them are contrary to the interest, welfare or rights of any owner or owners. The decisions of the Committee shall be final.

5.3 Conditional Approval. Any approval by the Committee may be conditioned upon compliance by the applicant with any reasonable condition which it deems appropriate, including, but not limited to, the posting of bonds or other acceptable security to secure performance by the applicant in accordance with the plans and specifications being approved.

5.4 No Liability. Neither the Committee or any person who succeeds it shall be liable to any party for any action or for any failure to act under or pursuant to the provisions of this Declaration, provided, that the Committee or its successor proceeds in good faith and without malice.

5.5 Expiration. Neither the Committee nor any members appointed to it shall have any responsibility with regard to these covenants after five (5) years from the date hereof or when Declarant no longer owns any of the lots in the subdivision, whichever occurs later. If a Community Association composed of the owners of not less than sixty percent (60%) of the lots is then or thereafter in existence, it may appoint, in accordance with its By-Laws, successors to the members of the Committee, who shall thereafter exercise its powers. The By-Laws may provide for resolutions of disputes through arbitration.

6. COMMUNITY ASSOCIATION.

The Declarant shall form a community organization to include as members all purchasers of any lot within this Plat. This organization shall be a non-profit corporation under Title 24 of the Revised Code of Washington, and shall be known as "Briza Community Association".

6.1 Purpose. Among the objectives and purposes of the Community Association shall be the furtherance and promotion of the common welfare of the purchasers of any lot, tract or parcel; the regulation, use, care, construction, operation, repair and maintenance and preservation of walkways, common areas and easements in this plat for which there is a private maintenance obligation to be shared in common by Association members according to the terms hereof; and the regulation, maintenance and repair of facilities thereon and such other facilities, equipment, activities, objects and purposes pertaining to the welfare, enjoyment, social well-being and protection and benefit of the members and their property in this plat, including but not limited to the operation and maintenance of and use of property held or controlled by the Community Association; payment of taxes on common areas and improvements; the furnishing of protection, drainage, and the like for the common good.

6.2 Creation and Transfer of Control. The Community Association shall be organized at the instance of the Declarant, and each purchaser of a lot shall be a member in the Community Association. The Declarant shall designate and appoint a Board of Trustees of the Community Association until such time as the Declarant has sold one hundred percent (100%) of the lots in this plat.

When one hundred percent (100%) of the lots in this plat have been sold, the control of the Community Association shall be turned over to the members, and the members may elect from its number at large as provided in the Articles of Incorporation and By-Laws the Board of Trustees. The Declarant, at its option, may at any time sooner turn over control of the Community Association.

6.3 Conveyances. The Declarant shall transfer and convey by deed all common areas, alleys, paths and walkways to the Community Association subject to the reservations impressed upon these properties by this Declaration. This conveyance shall be made after the Association has been created and improvements have been completed. At such time as the Declarant conveys the common open space, drainage systems, alleys, paths and walkways to the Community Association, the Community Association shall thereafter be responsible for the maintenance and upkeep of the alleys, drainage systems, paths, walkways and other common areas. In like manner, the Community Association shall be responsible for maintaining all of the storm drainage system within the Plat.

6.4 Assessments and Liens.

(a) Authority. The Community Association shall be empowered to establish and collect dues and assessments upon lots in this plat for the common benefit of such lots.

(b) Objects. The objects for which dues and assessments may be made and collected include utilities, roadways, drainage, property protection, landscaping, insurance, improvements, payment of taxes upon common property, the holding of ownership or a lease-hold interest therein or for any other common purposes, all as determined pursuant to the Articles and By-Laws of the Community Association.

(c) Personal Obligation and Lien Foreclosure. Such assessments shall constitute a personal obligation of any lot owner of record on the due date thereof, and shall also constitute a lien on the lot assessed. Such lien may be foreclosed by the Community Association in the same form and manner of procedure as the foreclosure of real property mortgage liens under the laws of the State of Washington.

(d) Amounts Included. Each owner and each party hereinafter owning or claiming an interest in one or more lots agrees that in the event of such a foreclosure action, the owner or party will pay the Association's expenses of title examination and insurance, the cost of attorney's fees incurred by the Community Association, and court costs. Interest at twelve percent (12%) per annum shall be included along with the amount of delinquent assessment in the judgment of foreclosure of such lien.

(e) Manner of Assessment. Assessments shall be assessed and collected on a fair and uniform basis as among lots, tracts, or parcels subject thereto, by the By-Laws of the Community Association between improved lots and unimproved lots.

(f) Other Liens and Foreclosure Actions. The method and manner provided for foreclosure of liens in this paragraph shall pertain to all liens referred to in these covenants. First mortgage liens placed upon any of said

lots for the purpose of constructing a residence or other liens provided for by the laws of the State of Washington, shall be, from the date of recordation of such, superior to any and all charges, assessments and liens imposed pursuant to this Declaration.

6.5 Establishment and Assessment of Charges. For the purpose of providing funds for uses specified herein, the Board shall for each year, commencing with the calendar year 1987, fix and assess a yearly assessment against the assessable property. The assessment shall be equal to a certain number of dollars and cents per individual lot recorded on the final plat, except that any unsold lot in the Declarant's initial inventory of lots shall not be assessed the annual assessment for a period of four (4) calendar years beginning January 1, 1987, or until the individual lot is sold.

6.6 Annual Statement. As soon as shall be practicable in each year, the Association shall send a written statement to each owner providing the number of dollars and cents assessed by the Board as the yearly assessment for the year in question, stated in terms of the total sum due and owing as the annual charge. The Association may, however, in its sole discretion determine to bill the annual charge in monthly installments, with or without a service charge as the Association may determine.

6.7 Penalty on Delinquent Assessment. If an owner shall fail to pay any installment of the annual charge within thirty (30) days from the date of issuance of the statement therefor, the same shall be deemed delinquent and will bear a penalty to be determined by the Community Association.

6.8 Delinquency for More than Ninety (90) Days. If the owner of any assessable lot shall fail to pay the annual charge or any installment therefor within ninety (90) days following the date of issuance of the statement therefor, the Association shall have the right to sue such owner for a personal judgment and, in addition, shall have the right to enforce the lien, hereinafter imposed. The amount due by such owner shall include the unpaid annual charge or installment thereof as well as the cost of such proceedings, including reasonable attorneys' fees, and the aforesaid penalty.

6.9 Rules and Procedures for Billing and Collecting Assessments. The Board shall have power and authority to adopt rules and procedures respecting the billing and collection of the annual charges, which shall be binding on all the owners.

6.10 Increase in Assessments. The amount of the assessment against each lot shall be initially determined and may thereafter be increased or decreased for any period of one (1) year or more, by the affirmative vote of at least fifty one percent (51%) of the voting members of the Association, represented in person or by proxy and entitled to vote, at a meeting, annual or special, called for such purpose.

6.11 Application of Assessment. The Association shall apply all funds received by it pursuant to these restrictions in the order stated:

(a) Administrative costs and expenses incurred by the Association in the exercise of its powers, authority and duties described in these Articles;

(b) The promotion of the recreation, health, safety, enjoyment and welfare of the users of the common property, and the enhancement of the values of the property by means of construction, repair, maintenance, operation and administration of the common property, including, but not limited to, the payment of taxes and insurance premiums on the common property.

(c) The service, repair, maintainance or replacement of any and all improvements, but not limited to fences, roads, pathways, drainage and lighting belonging to the Association.

6.12 Authority to Maintain Surplus. The Association shall not be obligated to spend in any particular time period all the sums collected or received by it in such time period or any other time period. The Association may carry forward, as surplus, any balances remaining. The Association shall not be obligated to apply any such surpluses to the reduction of the amount of the annual charge in any year.

7. PROTECTION OF MORTGAGE OR DEED OF TRUST HOLDER.

No violation or breach of any restriction, covenants or condition contained in this Declaration or any supplemental Declaration, and not action to enforce the same shall defeat, render invalid or impair the lien of any mortgage or deed of trust taken in good faith and for value of the title or interest of the holder thereof or the title acquired by any purchaser upon foreclosure of any such mortgage or deed of trust. Any such purchaser shall, however, take subject of this Declaration and any supplemental Declaration, except only that violations or breaches which occurred prior to such foreclosure shall not be deemed breaches or violations hereof.

8. ENFORCEMENT

All disputes concerning compliance with use standards or concerning the terms of this Declaration may be decided by arbitration. Once a party appoints an arbitrator, he or she shall be deemed to have irrevocably submitted to arbitration and to have irrevocably agreed to be bound by the decision reached by the arbitration panel. The party seeking enforcement or interpretation of this Declaration shall appoint one (1) arbitrator. The other party shall appoint a second arbitrator and the two so selected shall appoint a third. In the event the two arbitrators initially appointed are unable to select a third arbitrator within (3) weeks following their appointment, such arbitrator shall be appointed by the presiding Judge of the Whatcom County Superior Court. All arbitrators appointed shall be attorneys engaged in the private practice of law. The arbitrators so appointed shall take such testimony on the question before them as they shall deem appropriate and their decision shall be binding upon all parties and on the Association. The arbitration shall be accomplished in accordance with the applicable rules of the American Arbitration Association. All decisions of the panel shall be by majority vote. The cost and expenses of arbitration shall be borne equally by the parties.

In the event that either party refuses to submit to arbitration, the Association, the Declarant and each lot purchaser shall have the right to enforce, by any proceedings at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by this Declaration. Failure of the Association, the Declarant or any lot owner or contract purchaser to enforce any covenant or restriction in this Declaration shall not be deemed a waiver of the right to do so thereafter. The prevailing parties in any litigation involving the enforcement of these covenants shall be awarded a reasonable attorney's fee and court costs.

9. GRANTEE'S ACCEPTANCE.

The grantee of any lot subject to the coverage of these Declarations by acceptance of a deed conveying title thereof, or the execution of a contract for the purchase thereof, whether from Declarant or a subsequent owner of such lot, shall accept such deed or contract upon and subject to each and all of these Declarations and the agreements herein contained, and also the jurisdiction, rights and powers of Declarant, and by such acceptance, shall for himself, his heirs, personal representative, successors and assigns, covenant, consent and agree to and with Declarant, and to and with the grantees and subsequent owners of each of the lots within the subdivision, to keep, observe, comply with and perform said Declarations and agreements.

Each such grantee also agrees, by such acceptance, to assume, as against Declarant, its successors or assigns, all the risks and hazards of ownership and occupancy attendant to such lot, including but not limited to its proximity to any parks, children's recreational facilities, public paths, streams or other water courses.

10. AMENDMENT TO DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS.

The covenants and restrictions of this Declaration shall run with and bind with the land and shall inure to the benefit of and be enforced by the Association, the Declarant, the owners or contract purchasers of any lots subject to any Declaration, their respective legal representatives, heirs, successors and assigns for a period of thirty (30) days from the date of this Declaration as recorded, after which time said covenants shall be automatically extended for successive periods of ten (10) years, unless an instrument terminating these covenants is signed by not less than seventy five percent (75%) of the property owners or contract purchasers, which instrument shall then be filed for record with the Whatcom County Auditor's office. These covenants and restrictions may be amended by an instrument signed by not less than the owners or contract purchasers, including the Declarant during the first ten year period, then owning seventy-five percent (75%) of the property subject to this Declaration; provided, Article 4.2 and 4.4 may not be altered or amended as provided herein without the express written consent of the City of Bellingham. An amendment shall take effect upon approval as provided herein and when it has been recorded with the Whatcom County Auditor's Office.

11. SEVERABILITY.

In the event that any of these covenants, conditions and restrictions is

determined by judgment or court order to be invalid, the remaining portion or portions of this Declaration shall in no way be affected.

12. PARAGRAPH HEADINGS.

The paragraph headings in this instrument are for convenience only and shall not be considered in construing this Declaration.

13. NO WAIVER.

Failure to enforce any restriction, covenant or condition in this Declaration or any supplemental Declaration shall not operate as a waiver of any such restriction, covenant or condition or of any other restriction, covenant or condition.

DATED this _____ day of _____, 1986.

TRILLIUM CORPORATION
a Washington corporation

By _____
David R. Syre
Its President

By _____
Its Secretary

STATE OF WASHINGTON)
) ss.
COUNTY OF WHATCOM)

On this _____ day of _____, 1986, before me, the undersigned, a Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared David R. Syre and to me known to be the President and Secretary, respectively, of TRILLIUM CORPORATION, a Washington corporation, 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 they are authorized to execute the said instrument.

WITNESS my hand and official seal, the day and year first above written.

Notary Public in and for the State of
Washington, residing in Bellingham

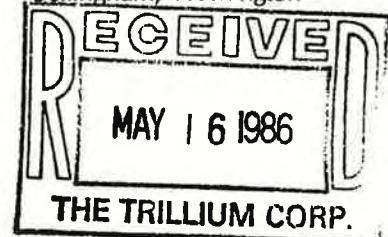


PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT

William T. Geyer, Director
(206) 676-6982

City Hall • 210 Lottie • Bellingham, Washington 98225

May 13, 1986



Ms. Jean Gorton
Vice President
Trillium Corporation
4183 Meridian Street
Bellingham, WA 98225

RE: Briza Subdivision - Final Plat Approval

Thank you for the submittal of materials for final plat approval of the Briza Subdivision. Because of the property exchange between the City and the Trillium Corporation, some design changes have been made since approval of the preliminary plat. After consulting with the City Attorney and in order to facilitate efficient processing of this subdivision, we have set the following schedule for review:

1. Planning Commission review of proposed street names. No public hearing required.
2. Public hearing before City Council to consider changes to the preliminary plat and original resolution.
3. After completion of onsite improvements, the Council can approve acceptance of the final plat.

The proposed street names are scheduled to be reviewed by the Planning Commission at the May 22, 1986 meeting. The Council hearing for proposed changes will be scheduled for June 9, 1986. The scheduling of acceptance of the final plat is dependent upon your time table for completion of the improvements. If you will forward an estimated date of completion to this office we will schedule a Council Review within about two weeks of this date.

A preliminary review of the final plat indicates a need for some changes. It would probably be most helpful if these changes were made prior to the City Council review of the original resolution. In this manner if there are any points of contention between the staff and your company, there would be a public forum available to air these differences.

We require the following changes on the face of the plat:

- ✓ 1. The two utility easements which extend south from Sea Crest Road to the marsh and beach area should also be designated as pedestrian access.

Letter to Ms. Jean Gorton
Page 2
May 13, 1986

2. Property in City ownership located south of lots 52-58 should be included on the plat as a lot.

3. ~~THE AREA BETWEEN SEACREST COURT & SEA CREST ROAD WAS TO BE CITY ROW DUE TO THE MASSIVE FILL SLOPE COVERING THE AREA.~~ ✓ 4. References to "Engineer" should be changed to "City Engineer".

5. References to "City Treasurer" should be changed to "Finance Director".

✓ 6. References to the "Engineering Department" should be changed to the "Public Works Department".

✓ 7. A note on the face of the plat should indicate that 43 lots 25-34 will require individual private sewer pumps.

The City Surveyor is still reviewing the legal description and may have additional comments.

Please remember that lots may be sold prior to filing of the Final Plat, however, all monies received must remain in escrow until the plat is finished and filed for record.

If you have any questions regarding the above procedures or comments, please contact Vickie Matheson of this office.

Sincerely,



William T. Geyer
Director

cc: William Hager
Tom Rosenberg
Ron Olson
Rob Neale
Ian Sievers
Vickie Matheson

D.D.U. DATE 2-5-80

CHKD. BY DATE

SUBJECT

CLARK

SHEET NO. 1 OF 1
JOB NO. 79280SPLIT OF DEEDED ROAD
ADJACENT TO PROJECT

Δ 03°12'50"

R 1070

L 60.02

SOUTH R/W VIEW CREST

Δ 18°53'40"

R 370

L 122.01

Δ 19°04'01"

R 430

L 143.11

N 89°22'16" W 468.03

N.E. CORNER
GOVT. LOT 1

P.O.B.

N 00°27'20" E

149.81

Δ 24°17'28"

R 405

L 171.70



SCALE 1"=100'

WEST LINE OF EAST 750'-GOVT. LOT 1

126.91
N 50°42'20" E
176.81Δ 50°15'00" R 345 L 302.58
Δ 14°00'52" R 405
L 99.06N 40°56'52" W 512.61
415.13

106.94

N 89°22'16" W

SOUTH LINE NORTH 700'-GOVT. LOT 1

Briza

Zoning R 1

Detached Cluster

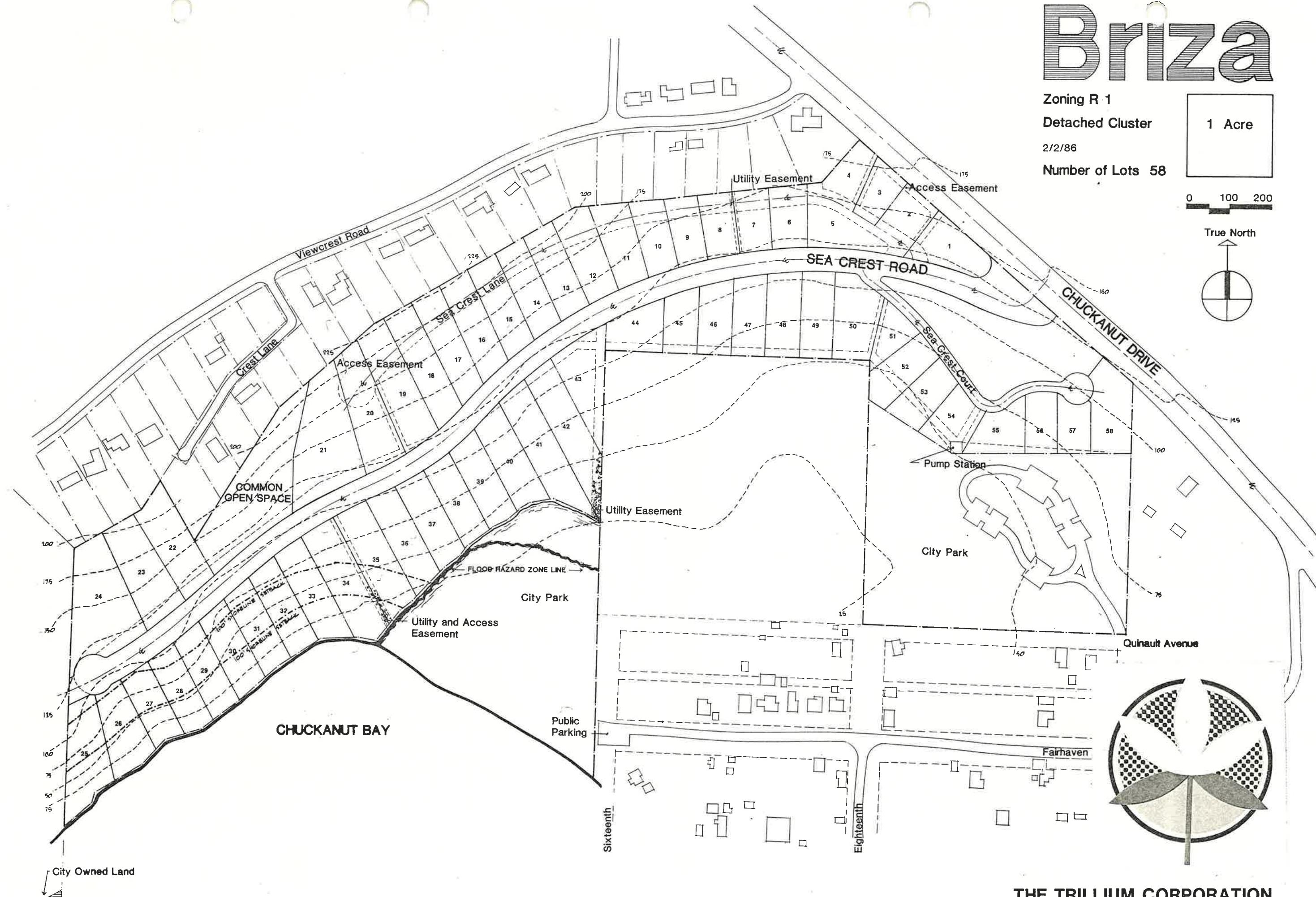
2/2/86

Number of Lots 58

1 Acre

0 100 200

True North



DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
OF THE PLAT OF "BRIZA"A. RECITALS.

This Declaration is made with reference to the following facts and conditions:

1. The undersigned Declarant is the owner in fee simple of the following described real estate property in Whatcom County, Washington:

THE PLAT OF BRIZA, CITY OF BELLINGHAM, COUNTY OF WHATCOM,
STATE OF WASHINGTON.

2. Declarant intends to ensure that construction of single-family homes within this subdivision is in conformance with the requirements and restrictions of the June 18, 1984, City of Bellingham Resolution accepting the Preliminary Plat hereof; and

3. Declarant desires to provide the means to enforce the rights, reservations, easements, liens and charges provided in this Declaration, and for necessary maintenance and to provide for a community organization consisting of a non-profit community Association that includes as members those who purchase any lot, tract or parcel within this subdivision.

B. DECLARATION.

The Declarant hereby certifies and declares that the following conditions, covenants and restrictions shall endure and be binding upon the respective owners of each lot, and further declares that all of the property within the Plat of Chuckanut Bay described herein is held, and shall be held, conveyed, encumbered, leased, rented, used, occupied and improved subject to the following limitations, restrictions, conditions and covenants for the purpose of enhancing and protecting the value, desirability and attractiveness of the subdivision and every part thereof. All of the following limitations, restrictions, conditions and covenants shall run with the land and shall be binding on all parties having or acquiring any right, title or interest in the subdivision or any part thereof.

1. LAND CLASSIFICATION AND DEFINITIONS.

The following words and classifications of land shall have the following meanings under this agreement.

1.1 Lot: Any parcel of real property within the boundaries of the subdivision identified by Arabic numerals and designated for the location and construction of a single-family residence.

1.2 Owner: Any person, firm or corporation holding either fee title or a vendee's interest under a real estate contract as shown by the records of Whatcom County, Washington, to the exclusion of any lessor's interest.

1.3 Person: Any individual, firm, corporation, partnership, association, unincorporated association or organization, or political subdivision thereof.

1.4 Declarant: Declarant is The Trillium Corporation, its successors and any assigns engaged in land development and/or wholesale land sale activities in Whatcom County, Washington, or some portion thereof.

1.5 Common Properties: Real property owned by the Association or dedicated on the face of the Plat map for common use and enjoyment of the lot owners and members of the Association, including all roads, paths and walkways.

1.6 Annual Charge: The sum of (1) the yearly assessment against the assessable property; (2) the interest on any delinquent charges imposed; (3) the cost of any maintenance or repair work required to be performed by the owner but not so performed and performed instead by the Association; and (4) the cost of enforcing the lien imposed hereunder upon such assessable property.

1.7 Assessable Property: Each individual lot, together with any easement or common area which may be assessed for taxes by the City of Bellingham or its successor in interest.

1.8 Improvements: Improvements shall mean and include, without limitation, buildings, out-buildings, roads, driveways, parking areas, fencing, retaining walls, swimming pools, screening, walls, ornamentation, signs, stairs, decks, hedges, wind breaks, plantings, planted trees, shrubs, poles, lighting, hot tubs and all other structures or landscaping.

1.9 Resident: (1) each person lawfully residing on or in any part of the assessable property; and (2) members of the immediate family of each such person actually living in the same household with such person.

1.10 Board: The Board of Trustees, Board of Directors, or other governing body of the Association.

2. RESERVATIONS

2.1 Reservation of Easements. Easements for drainage, sewers, water pipes and utilities, facilities and service (including but not limited to water supply, electricity, gas, telephone, television) are hereby reserved over, under, upon, in and through all roadways and walkways, and over, under, upon and through certain portions of lots, tracts or parcels as shown on the Final Plat map of said Plat in which to install, lay, construct, repair, renew, operate, maintain and inspect underground pipes, sewers, conduits, cables, wires and all necessary facilities and equipment for the purpose of serving said Plat, together with the right to enter upon said easement areas, lots, tracts, parcels, roads and walkways for or pertaining to the aforesaid. This reservation of easement is for the benefit of Declarant and its successors in interest, the City of Bellingham, Puget Power, Cascade Gas, Northwest Bell, Nationwide Cablevision.

2.2 Reservation of Alley Serving Lots 5 through 21. The interior road or

alley serving Lots 5 through 21 of this Plat and accessing the main access road of this Plat east of Lot 5 shall be conveyed by the Declarant in trust to the Community Association and held by the Community Association for the benefit of Lots 5 through 21 as set forth below. The conveyance is to be made when the alley has been accepted as completed by the City of Bellingham Engineering Department and after the Association has come into existence. Upon conveyance of the alley to the Community Association, each of Lots 5 through 21 shall share equally in the cost of maintenance and repair of this alley. The Community Association hereinafter established shall be responsible for collecting assessments from these lots for this purpose.

2.3 Reservation of Alley for Serving Lots 1 through 4. The interior road or alley serving Lots 1 through 4 of this Plat and accessing the main access road of this Plat east of Lot 5 and between Lots 1 and 2 shall be conveyed by the Declarant in trust to the Community Association and held by the Community Association for the benefit of Lots 1 through 4 as set forth below. The conveyance is to be made when the alley has been accepted as completed by the City of Bellingham Engineering Department and after the Association has come into existence. Upon conveyance of the alley to the Community Association, each of lots 1 through 4 shall share equally in the cost of maintenance and repair of this alley. Further, Lots 1 through 4 shall jointly participate as one lot in the cost of maintenance and repair of the primary alley (Sea Crest Lane) as referenced in Section 2.2. above. The Community Association hereinafter established shall be responsible for collecting assessments from these lots for this purpose.

2.4 Reservation of Pedestrian Walkways. All pedestrian walkways shown on said Plat shall be improved to facilitate pedestrian access. Declarant agrees to convey these pedestrian walkways to the Association after improvements are completed and the Association comes into existence. Upon conveyance of such internal pedestrian easements leading to open space areas, the Community Association shall thereafter be responsible for the maintenance and upkeep of such internal pedestrian walkways.

2.5 Reservation of Common Open Space. All areas identified on the face of this Plat as common open space are hereby conveyed to the Community Association, and the Community Association shall be responsible for the maintenance and upkeep of the common open space. The Community Association shall assess each lot an equal portion for any maintenance and upkeep associated with the common open space area or areas, including, but not limited to, costs associated with brush control, trash removal and weed control.

2.6 Reservation of Drainage Easements and the Right to Drain. The Declarant hereby reserves the right to drain all roadways, walkways, easement ways and areas over and across any lot or lots, blocks, tracts and parcels where water might take a natural course after the grading thereof. The two drainage easements designated within this Plat and acting as biofilters between the storm drain outfalls and the marsh shall be maintained as meandering grass lined swales. These easements are conveyed to the Community Association, and the Community Association shall be responsible for the maintenance of the swales, including regular cleaning to remove sediments, and the replanting of grass and the placement of new rock as necessary to ensure effective operation.

2.7 Sales Office. The Declarant reserves the right to maintain a sales office on a lot to be designated by the Declarant within this Plat for the purpose of selling and re-selling lots within this Plat; provided, that the sales activity shall be limited to the sale or resale of lots within this Plat. Declarant reserves the right to place and maintain "for sale" signs on any lot within the said Plat as may be prepared and erected by the Declarant.

3. GENERAL USE RESTRICTIONS AND REQUIREMENTS.

3.1 All lots within the subdivision shall be used exclusively for permanent residential purposes.

3.2 All boats, utility trailers, trucks of more than one-ton capacity, campers, travel trailers, motorhomes and similar items or vehicles, shall not be operated, maintained or kept upon any lot or parking area, but shall at all times be enclosed in a garage or otherwise hidden from view; provided, that out-of-county guests of an owner may, with the owner's permission, park a recreational vehicle or travel trailer on the owner's lot and completely off the street for up to four (4) weeks.

3.3 No firearms, fireworks or explosives shall be discharged within the boundaries of the subdivision.

3.4 No animals, livestock or poultry of any kind shall be raised, bred or kept on any lot, except dogs, cats or other house-hold pets may be kept, provided they are not kept, bred or maintained for commercial purposes.

3.5 No signs or billboards shall be placed upon any lot except that one identification sign bearing the owner's name may be placed upon the owner's lot. Nevertheless, the Declarant may display post signs, billboards and other advertising materials in or about any unsold lots until all lots in the subdivision have been sold by Declarant, and Declarant may subsequently advertise the property for sale.

3.6 No lot owner shall deposit or permit the accumulation of any trash, ashes, garbage or other refuse or debris on or about the subdivision, but shall deposit same in covered trash receptacles.

3.7 No outside incinerators or other equipment for the disposal of rubbish, trash, garbage or other waste material shall be used within the subdivision, with the exception that covered compost heaps may be maintained according to conditions of 3.8.

3.8 Each lot owner shall keep his lot neat and orderly in appearance, and shall not cause or permit any noxious, odorous or tangible objects which are unsightly in appearance to exist on the premises.

3.9 All automobiles and all other permitted vehicles, if kept or parked on any lot, shall be in good order and working condition. Partially wrecked vehicles, discarded vehicles or vehicles which are in a state of disrepair shall not be kept on any lot, unless enclosed in a garage or otherwise completely hidden from view.

3.10 No television or radio antennas of any kind which extend more than ten (10) feet above the roofline of the residence shall be permitted on any lot or structure nor shall any satellite or "dish" antennas be permitted on any lot or structure.

3.11 Further subdivision of lots is hereby prohibited except (1) where lots of equivalent or larger size are created; or (2) if area is exchanged between adjoining lots without the creation of an additional lot.

3.12 Boundary line fences may be erected and maintained from the rear corner line of the main structure and extending toward the rear of the lot. No boundary line fences extending forward and toward the street from the rear corner line of the main structure shall be permitted except those composed of living materials only, such as hedges, shrubs or trees. Boundary line fences composed of "cyclone" type fencing materials, wire mesh or wire of any kind shall be prohibited. For lots accessed by alleys, front yard is defined as that part of the yard between Sea Crest Road and the nearest plane of the main structure.

3.13 In order that existing views from individual lots may be protected to the extent practicable, no trees or shrubs may be planted which are capable of attaining a height of thirty (30) feet or more upon maturity, unless planted to replace a similar tree or shrub which existed at the time of original conveyance of the lot on which the tree is planted.

4. CONSTRUCTION

4.1 Time for Completion. Construction of all buildings shall be prosecuted diligently from commencement of work until the exterior is completed and painted and all sanitation and health requirements have been fulfilled. The maximum time limit for the completion of the building shall be twelve (12) months from the date construction commences, which is defined as the date building materials are first delivered to the property. Construction shall not be deemed completed until the lawn (bark or ground cover) and shrubs have been properly seeded and the lot has been cleaned up, rendered free of debris and placed in reasonable condition.

4.2 Construction Requirements. All single-family home construction within this Plat is subject to the following provisions and restrictions, to be enforced by appropriate City agencies:

(a) All footing excavations must be inspected by a geotechnical engineer prior to pouring concrete to determine if adequate bearing has been achieved.

(b) Any cut and fill slopes exceeding 2 (horizontal):1 (vertical) must be evaluated for stability by a geotechnical engineer.

(c) Neighbors must be notified when blasting is to occur, and blasting shall be restricted to daylight hours.

(d) Individual fire sprinkler systems may be required by the fire marshall.

(e) Provisions shall be made at each construction site to control erosion, such as temporary settling basins, straw bales, seeding, mulching steep slopes and shielding excavations through the use of material such as visquine.

(f) Lots 35 through 41 shall have a 50 foot building set back from the rear property line adjacent to the marsh. This area shall be maintained with vegetative materials and no filling or grading shall occur.

4.3 Height Restrictions. Height of structures erected on lots shall be restricted as follows or pursuant to the terms of any applicable City ordinance provision in effect at the time of application for a building permit, whichever is more stringent.

(a) No structure shall exceed thirty five (35) feet under height definition #1 or twenty (20) feet under height definition #2.

Definition #1: The verticle distance from the average finished grade to the average height of the highest gable of a pitch or hip roof;

Definition #2: The verticle distance measured from the highest point on the building site to the average elevation of the highest gable of a pitch or hip roof.

5. DESIGN REVIEW COMMITTEE.

5.1 General. Design review and control shall be accomplished by a Design Review Committee, which shall be composed of one owner's representative, one architect, one engineer, and two lot owners, and/or such person as they or the Declaration shall designate in writing. Fees for participation by the designated architect and engineer shall be paid by the lot owners submitting plans for review. No fees shall be charged by the Declarant or other lot owners. No building shall be erected, placed or altered on any lot until the construction plans, specifications and plans showing the location of the structure have been approved by the Committee as to the quality of materials, harmony of external design with existing structures, and location with respect to topography and finished grade elevation.

5.2 Approval/Disapproval. The Committee shall approve or disapprove plans, specifications, and details, including specified color finish, within fifteen (15) days following receipt. Plans, specifications and details which are not approved or disapproved within fifteen (15) days shall be deemed approved as submitted. Two (2) sets of plans, specifications, and details, including exterior color finish must be submitted. One (1) such set shall be returned to the person submitting them with the approval or disapproval endorsed on them. The other copy shall be retained by the Committee for its permanent files.

The Committee shall have the right to disapprove any plans, specifications or details in the event the same are not in accordance with all the provisions of this Declaration, if the design or color scheme of the proposed building or other structure is not in harmony with the general surroundings of such lots

or with the adjacent buildings or structures, if the plans and specifications are incomplete, or in the event the Committee decides that the plans, specifications, details or any part of them are contrary to the interest, welfare or rights of any owner or owners. The decisions of the Committee shall be final.

5.3 Conditional Approval. Any approval by the Committee may be conditioned upon compliance by the applicant with any reasonable condition which it deems appropriate, including, but not limited to, the posting of bonds or other acceptable security to secure performance by the applicant in accordance with the plans and specifications being approved.

5.4 No Liability. Neither the Committee or any person who succeeds it shall be liable to any party for any action or for any failure to act under or pursuant to the provisions of this Declaration, provided, that the Committee or its successor proceeds in good faith and without malice.

5.5 Expiration. Neither the Committee nor any members appointed to it shall have any responsibility with regard to these covenants after five (5) years from the date hereof or when Declarant no longer owns any of the lots in the subdivision, whichever occurs later. If a Community Association composed of the owners of not less than sixty percent (60%) of the lots is then or thereafter in existence, it may appoint, in accordance with its By-Laws, successors to the members of the Committee, who shall thereafter exercise its powers. The By-Laws may provide for resolutions of disputes through arbitration.

6. COMMUNITY ASSOCIATION.

The Declarant shall form a community organization to include as members all purchasers of any lot within this Plat. This organization shall be a non-profit corporation under Title 24 of the Revised Code of Washington, and shall be known as "Briza Community Association".

6.1 Purpose. Among the objectives and purposes of the Community Association shall be the furtherance and promotion of the common welfare of the purchasers of any lot, tract or parcel; the regulation, use, care, construction, operation, repair and maintenance and preservation of walkways, common areas and easements in this plat for which there is a private maintenance obligation to be shared in common by Association members according to the terms hereof; and the regulation, maintenance and repair of facilities thereon and such other facilities, equipment, activities, objects and purposes pertaining to the welfare, enjoyment, social well-being and protection and benefit of the members and their property in this plat, including but not limited to the operation and maintenance of and use of property held or controlled by the Community Association; payment of taxes on common areas and improvements; the furnishing of protection, drainage, and the like for the common good.

6.2 Creation and Transfer of Control. The Community Association shall be organized at the instance of the Declarant, and each purchaser of a lot shall be a member in the Community Association. The Declarant shall designate and appoint a Board of Trustees of the Community Association until such time as the Declarant has sold one hundred percent (100%) of the lots in this plat.

When one hundred percent (100%) of the lots in this plat have been sold, the control of the Community Association shall be turned over to the members, and the members may elect from its number at large as provided in the Articles of Incorporation and By-Laws the Board of Trustees. The Declarant, at its option, may at any time sooner turn over control of the Community Association.

6.3 Conveyances. The Declarant shall transfer and convey by deed all common areas, alleys, paths and walkways to the Community Association subject to the reservations impressed upon these properties by this Declaration. This conveyance shall be made after the Association has been created and improvements have been completed. At such time as the Declarant conveys the common open space, drainage systems, alleys, paths and walkways to the Community Association, the Community Association shall thereafter be responsible for the maintenance and upkeep of the alleys, drainage systems, paths, walkways and other common areas. In like manner, the Community Association shall be responsible for maintaining all of the storm drainage system within the Plat.

6.4 Assessments and Liens.

(a) Authority. The Community Association shall be empowered to establish and collect dues and assessments upon lots in this plat for the common benefit of such lots.

(b) Objects. The objects for which dues and assessments may be made and collected include utilities, roadways, drainage, property protection, landscaping, insurance, improvements; payment of taxes upon common property, the holding of ownership or a lease-hold interest therein or for any other common purposes, all as determined pursuant to the Articles and By-Laws of the Community Association.

(c) Personal Obligation and Lien Foreclosure. Such assessments shall constitute a personal obligation of any lot owner of record on the due date thereof, and shall also constitute a lien on the lot assessed. Such lien may be foreclosed by the Community Association in the same form and manner of procedure as the foreclosure of real property mortgage liens under the laws of the State of Washington.

(d) Amounts Included. Each owner and each party hereinafter owning or claiming an interest in one or more lots agrees that in the event of such a foreclosure action, the owner or party will pay the Association's expenses of title examination and insurance, the cost of attorney's fees incurred by the Community Association, and court costs. Interest at twelve percent (12%) per annum shall be included along with the amount of delinquent assessment in the judgment of foreclosure of such lien.

(e) Manner of Assessment. Assessments shall be assessed and collected on a fair and uniform basis as among lots, tracts, or parcels subject thereto, by the By-Laws of the Community Association between improved lots and unimproved lots.

(f) Other Liens and Foreclosure Actions. The method and manner provided for foreclosure of liens in this paragraph shall pertain to all liens referred to in these covenants. First mortgage liens placed upon any of said

lots for the purpose of constructing a residence or other liens provided for by the laws of the State of Washington, shall be, from the date of recordation of such, superior to any and all charges, assessments and liens imposed pursuant to this Declaration.

6.5 Establishment and Assessment of Charges. For the purpose of providing funds for uses specified herein, the Board shall for each year, commencing with the calendar year 1987, fix and assess a yearly assessment against the assessable property. The assessment shall be equal to a certain number of dollars and cents per individual lot recorded on the final plat, except that any unsold lot in the Declarant's initial inventory of lots shall not be assessed the annual assessment for a period of four (4) calendar years beginning January 1, 1987, or until the individual lot is sold.

6.6 Annual Statement. As soon as shall be practicable in each year, the Association shall send a written statement to each owner providing the number of dollars and cents assessed by the Board as the yearly assessment for the year in question, stated in terms of the total sum due and owing as the annual charge. The Association may, however, in its sole discretion determine to bill the annual charge in monthly installments, with or without a service charge as the Association may determine.

6.7 Penalty on Delinquent Assessment. If an owner shall fail to pay any installment of the annual charge within thirty (30) days from the date of issuance of the statement therefor, the same shall be deemed delinquent and will bear a penalty to be determined by the Community Association.

6.8 Delinquency for More than Ninety (90) Days. If the owner of any assessable lot shall fail to pay the annual charge or any installment therefor within ninety (90) days following the date of issuance of the statement therefor, the Association shall have the right to sue such owner for a personal judgment and, in addition, shall have the right to enforce the lien, hereinafter imposed. The amount due by such owner shall include the unpaid annual charge or installment thereof as well as the cost of such proceedings, including reasonable attorneys' fees, and the aforesaid penalty.

6.9 Rules and Procedures for Billing and Collecting Assessments. The Board shall have power and authority to adopt rules and procedures respecting the billing and collection of the annual charges, which shall be binding on all the owners.

6.10 Increase in Assessments. The amount of the assessment against each lot shall be initially determined and may thereafter be increased or decreased for any period of one (1) year or more, by the affirmative vote of at least fifty one percent (51%) of the voting members of the Association, represented in person or by proxy and entitled to vote, at a meeting, annual or special, called for such purpose.

6.11 Application of Assessment. The Association shall apply all funds received by it pursuant to these restrictions in the order stated:

(a) Administrative costs and expenses incurred by the Association in the exercise of its powers, authority and duties described in these Articles;

(b) The promotion of the recreation, health, safety, enjoyment and welfare of the users of the common property, and the enhancement of the values of the property by means of construction, repair, maintenance, operation and administration of the common property, including, but not limited to, the payment of taxes and insurance premiums on the common property.

(c) The service, repair, maintainance or replacement of any and all improvements, but not limited to fences, roads, pathways, drainage and lighting belonging to the Association.

6.12 Authority to Maintain Surplus. The Association shall not be obligated to spend in any particular time period all the sums collected or received by it in such time period or any other time period. The Association may carry forward, as surplus, any balances remaining. The Association shall not be obligated to apply any such surpluses to the reduction of the amount of the annual charge in any year.

7. PROTECTION OF MORTGAGE OR DEED OF TRUST HOLDER.

No violation or breach of any restriction, covenants or condition contained in this Declaration or any supplemental Declaration, and not action to enforce the same shall defeat, render invalid or impair the lien of any mortgage or deed of trust taken in good faith and for value of the title or interest of the holder thereof or the title acquired by any purchaser upon foreclosure of any such mortgage or deed of trust. Any such purchaser shall, however, take subject of this Declaration and any supplemental Declaration, except only that violations or breaches which occurred prior to such foreclosure shall not be deemed breaches or violations hereof.

8. ENFORCEMENT

All disputes concerning compliance with use standards or concerning the terms of this Declaration may be decided by arbitration. Once a party appoints an arbitrator, he or she shall be deemed to have irrevocably submitted to arbitration and to have irrevocably agreed to be bound by the decision reached by the arbitration panel. The party seeking enforcement or interpretation of this Declaration shall appoint one (1) arbitrator. The other party shall appoint a second arbitrator and the two so selected shall appoint a third. In the event the two arbitrators initially appointed are unable to select a third arbitrator within (3) weeks following their appointment, such arbitrator shall be appointed by the presiding Judge of the Whatcom County Superior Court. All arbitrators appointed shall be attorneys engaged in the private practice of law. The arbitrators so appointed shall take such testimony on the question before them as they shall deem appropriate and their decision shall be binding upon all parties and on the Association. The arbitration shall be accomplished in accordance with the applicable rules of the American Arbitration Association. All decisions of the panel shall be by majority vote. The cost and expenses of arbitration shall be borne equally by the parties.



PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT

William T. Geyer, Director
(206) 676-6982

City Hall • 210 Lottie • Bellingham, Washington 98225

May 13, 1986

Ms. Jean Gorton
Vice President
Trillium Corporation
4183 Meridian Street
Bellingham, WA 98225

RE: Briza Subdivision - Final Plat Approval

Thank you for the submittal of materials for final plat approval of the Briza Subdivision. Because of the property exchange between the City and the Trillium Corporation, some design changes have been made since approval of the preliminary plat. After consulting with the City Attorney and in order to facilitate efficient processing of this subdivision, we have set the following schedule for review:

1. Planning Commission review of proposed street names. No public hearing required.
2. Public hearing before City Council to consider changes to the preliminary plat and original resolution.
3. After completion of onsite improvements, the Council can approve acceptance of the final plat.

The proposed street names are scheduled to be reviewed by the Planning Commission at the May 22, 1986 meeting. The Council hearing for proposed changes will be scheduled for June 9, 1986. The scheduling of acceptance of the final plat is dependent upon your time table for completion of the improvements. If you will forward an estimated date of completion to this office we will schedule a Council Review within about two weeks of this date.

A preliminary review of the final plat indicates a need for some changes. It would probably be most helpful if these changes were made prior to the City Council review of the original resolution. In this manner if there are any points of contention between the staff and your company, there would be a public forum available to air these differences.

We require the following changes on the face of the plat:

1. The two utility easements which extend south from Sea Crest Road to the marsh and beach area should also be designated as pedestrian access.

Letter to Ms. Jean Gorton
Page 2
May 13, 1986

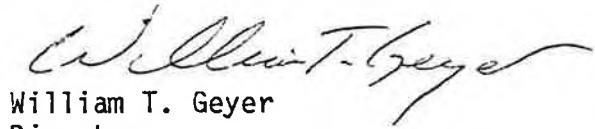
2. Property in City ownership located south of lots 52-58 should be included on the plat as a lot.
3. Sea Crest Court should be a publically dedicated right-of-way 50 feet in width with a 24 foot wide paved surface. The remaining property between Sea Crest Road and Court should be designated as private open space with the responsibility for maintainence resting with the property owners. A slope easement across this property shall be granted to the City.
4. References to "Engineer" should be changed to "City Engineer".
5. References to "City Treasurer" should be changed to "Finance Director".
6. References to the "Engineering Department" should be changed to the "Public Works Department".
7. A note on the face of the plat should indicate that lots 25-34 will require individual private sewer pumps.

The City Surveyor is still reviewing the legal description and may have additional comments.

Please remember that lots may be sold prior to filing of the Final Plat, however, all monies received must remain in escrow until the plat is finished and filed for record.

If you have any questions regarding the above procedures or comments, please contact Vickie Matheson of this office.

Sincerely,



William T. Geyer
Director

cc: William Hager
Tom Rosenberg
Ron Olson
Rob Neale
Ian Sievers
Vickie Matheson



PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT

William T. Geyer, Director
(206) 676-6982

City Hall • 210 Lottie • Bellingham, Washington 98225

April 14, 1986

M E M O R A N D U M

TO: Jack Garner, Public Works Director
FROM: *Bill* Bill Geyer, Director
RE: Briza Final Plat

Our office has been requested to process the Final Plat for the Briza Subdivision. It is my understanding that the majority of the required improvements have not yet been installed. Please let me know if you have problems in accepting bonds for the remaining improvements so that I may notify Trillium as soon as possible.

WTG/sg

cc: *Vickie Matheson*
Tom Rosenberg

LORINDA MORGAN

LORINDA MORGAN

THE TRILLIUM CORPORATION
4183 MERIDIAN
BELLINGHAM, WA 98226

April 9, 1986

4-10-86

Mr. Geyer:

The Plat Certificate is not yet completed. Whatcom Land Title is finishing tonight. We can then deliver it to you tomorrow.

Dear Mr. Geyer:

Here is the Plat Certificate that should have been included in yesterdays package from Jean Gorton
Re: Briza Subdivision

Thank you.

Thank you. -
Lorinda Morgan

THE TRILLIUM CORPORATION
4183 MERIDIAN
BELLINGHAM, WA 98226

Whatcom Land Title Company, Inc.

110 Grand Avenue, P.O. Box 516
Bellingham, Washington 98227
Phone (206) 676-8484 County (206) 384-5095

PLAT CERTIFICATE

Trillium Corporation
4183 Meridian
Bellingham, Wa. 98225

Charge: No charge
Tax:
Total:

Attention: Jean Gorton

Order No.: W-7449

Gentlemen:

This is a Plat Certificate as of April 8, 1986, at 8:00 a.m., for a plat of the following property:

SEE ATTACHED EXHIBIT "A" FOR LEGAL DESCRIPTION

This Company certifies that record title is vested in:

THE TRILLIUM CORPORATION, a Washington Corporation

Free from all liens, encumbrances and objections, except as follows:

1. General taxes for the year 1986. The first half thereof must be paid on or before April 30, 1986, otherwise the entire amount will be considered delinquent.

Amount: \$443.47
Account No.: 370212397023
Land: \$39,325.00
Improvements: \$-0-
Tax Lot No.: 13
Tax Code No.: 0100

2. General taxes for the year 1986. The first half thereof must be paid on or before April 30, 1986, otherwise the entire amount will be considered delinquent.

Amount: \$140.97
Account No.: 370213151510
Land: \$12,500.00
Improvements: \$-0-
Tax Lot No.: 2.1
Tax Code No.: 0100

. . . CONTINUED . . .

3. Deed of Trust, to secure an indebtedness, including any interest, advances, or other obligations secured thereby, in the principal amount of \$ 350,000.00;

Dated: August 23, 1985
Recorded: August 30, 1985
Recording No.: 1515361
Grantor: THE TRILLIUM CORPORATION, a Washington Corporation
Trustee: SAFECO TITLE INSURANCE COMPANY
Beneficiary: MT. BAKER BANK, a Savings Bank

4. Any prohibition or limitation on the use, occupancy or improvement of the land resulting from the rights of the public or riparian owners to use any waters which may cover the land or to use any portion of the land which is now or may formerly have been covered by water.

interesting
This company further certifies that all taxes and assessments levied and chargeable have been fully paid except as noted.

WHATCOM LAND TITLE COMPANY, INC.


DAVID F. GODDARD
Authorized Signatory

LEGAL DESCRIPTION

THAT PORTION OF SECTIONS 12 AND 13, TOWNSHIP 37 NORTH, RANGE 2 EAST, W.M., BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTH QUARTER CORNER OF SAID SECTION 12; THENCE NORTH $1^{\circ}32'55''$ EAST ALONG THE NORTH-SOUTH CENTER LINE OF SAID SECTION 12 A DISTANCE OF 233.30 FEET TO THE TRUE POINT OF BEGINNING; THENCE NORTH $57^{\circ}40'18''$ WEST, 47.68 FEET; THENCE NORTH $65^{\circ}46'57''$ WEST, 80.30 FEET; THENCE SOUTH $84^{\circ}13'46''$ WEST, 60.81 FEET; THENCE SOUTH $57^{\circ}06'21''$ WEST, 29.57 FEET; THENCE SOUTH $46^{\circ}56'53''$ WEST 37.11 FEET; THENCE SOUTH $61^{\circ}06'49''$ WEST, 39.28 FEET; THENCE SOUTH $48^{\circ}33'45''$ WEST 40.11 FEET; THENCE SOUTH $55^{\circ}40'36''$ WEST, 47.12 FEET; THENCE SOUTH $35^{\circ}12'17''$ WEST, 29.03 FEET; THENCE SOUTH $54^{\circ}16'25''$ WEST 48.27 FEET; THENCE SOUTH $39^{\circ}39'28''$ WEST 33.98 FEET; THENCE SOUTH $43^{\circ}48'04''$ WEST 50.51 FEET; THENCE SOUTH $43^{\circ}19'02''$ WEST, 37.16 FEET; THENCE SOUTH $52^{\circ}23'29''$ WEST, 34.90 FEET; THENCE SOUTH $38^{\circ}06'39''$ WEST, 97.99 FEET; THENCE NORTH $78^{\circ}23'08''$ WEST 44.70 FEET; THENCE SOUTH $87^{\circ}36'57''$ WEST, 97.19 FEET; THENCE SOUTH $56^{\circ}03'13''$ WEST, 125.00 FEET; THENCE SOUTH $48^{\circ}16'44''$ WEST 133.22 FEET; THENCE SOUTH $53^{\circ}55'29''$ WEST, 116.46 FEET; THENCE SOUTH $73^{\circ}16'54''$ WEST, 97.70 FEET; THENCE SOUTH $42^{\circ}32'12''$ WEST, 85.02 FEET; THENCE SOUTH $58^{\circ}32'39''$ WEST, 59.97 FEET; THENCE SOUTH $59^{\circ}45'15''$ WEST, 80.35 FEET; THENCE SOUTH $12^{\circ}55'13''$ WEST, 29.08 FEET; THENCE SOUTH $49^{\circ}46'26''$ WEST, 92.28 FEET TO THE WEST LINE OF GOVERNMENT LOT 2 IN SAID SECTION 13; THENCE NORTH $1^{\circ}50'21''$ EAST ALONG SAID WEST LINE 581.98 FEET TO THE SOUTHWEST CORNER OF THE SOUTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SAID SECTION 12; THENCE NORTH $1^{\circ}35'46''$ EAST ALONG THE WEST LINE OF SAID SOUTHEAST QUARTER OF THE SOUTHWEST QUARTER, 115.15 FEET TO THE SOUTHERLY LINE OF THE PLAT OF VIEWCREST AS RECORDED IN VOLUME 8 OF PLATS AT PAGE 5, UNDER AUDITOR'S FILE NO. 643936, RECORDS OF WHATCOM COUNTY; THENCE NORTH $59^{\circ}29'05''$ EAST ALONG SAID SOUTHERLY LINE, 197.74 FEET; THENCE NORTH $32^{\circ}22'05''$ EAST ALONG SAID SOUTHERLY LINE, 89.88 FEET; THENCE SOUTH $30^{\circ}30'55''$ EAST ALONG SAID SOUTHERLY LINE 175.56 FEET; THENCE NORTH $32^{\circ}22'05''$ EAST ALONG SAID SOUTHERLY LINE 393.22 FEET; THENCE NORTH $47^{\circ}45'05''$ EAST ALONG SAID SOUTHERLY LINE 326.85 FEET; THENCE NORTH $59^{\circ}29'05''$ EAST ALONG SAID SOUTHERLY LINE 565.51 FEET; THENCE NORTH $84^{\circ}08'05''$ EAST ALONG SAID SOUTHERLY LINE, 623.13 FEET; THENCE NORTH $41^{\circ}11'45''$ EAST ALONG SAID SOUTHERLY LINE, 141.46 FEET TO THE INTERSECTION WITH THE SOUTHERLY RIGHT-OF-WAY LINE OF CHUCKANUT DRIVE; THENCE SOUTH $48^{\circ}48'15''$ EAST ALONG SAID SOUTHERLY RIGHT-OF-WAY LINE 920.93 FEET TO THE INTERSECTION WITH THE EAST LINE OF THE SOUTHWEST QUARTER OF THE SOUTHEAST QUARTER OF SAID SECTION 12; THENCE SOUTH $1^{\circ}26'46''$ WEST ALONG SAID EAST LINE 177.10 FEET TO A POINT 455.00 FEET NORTH OF THE SOUTHEAST CORNER OF SAID SUBDIVISION; THENCE NORTH 90° WEST, 450.00 FEET; THENCE NORTH $57^{\circ}28'38''$ WEST, 247.12 FEET TO THE INTERSECTION WITH THE EAST LINE OF THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER OF THE SOUTHEAST QUARTER OF SAID SECTION 12; THENCE NORTH $1^{\circ}29'51''$ EAST ALONG SAID EAST LINE, 100.00 FEET TO THE NORTHEAST CORNER OF SAID SUBDIVISION;

• • • CONTINUED • • •

LEGAL DESCRIPTION, Continued

THENCE NORTH $87^{\circ}58'17''$ WEST ALONG THE NORTH LINE OF SAID SUBDIVISION, 661.45 FEET TO THE NORTHWEST CORNER OF SAID SUBDIVISION; THENCE SOUTH $1^{\circ}32'55''$ WEST ALONG THE WEST LINE OF SAID SUBDIVISION 430.15 FEET TO THE TRUE POINT OF BEGINNING. SAID DESCRIPTION IS INTENDED TO COVER THE PROPOSED PLAT OF BRIZA.

SITUATE IN WHATCOM COUNTY, WASHINGTON.

• • • END OF EXHIBIT "A" • • •



The Trillium Corporation

4183 Meridian Street
Bellingham, Wa. 98226
(206) 676-9400

April 9, 1986

William Geyer, Director
Planning and Economic Development
210 Lottie
Bellingham, Wa. 98225

RE: BRIZA SUBDIVISION

Dear Mr. Geyer:

The Trillium Corporation submits the following materials for Final Plat approval for the Briza Subdivision:

- Survey and Legal Description - 4 copies
- Engineering worksheets for each lot and the total subdivision boundaries
- Covenants
- Plat Certificate
- Improvement Costs
- Inspection Fee of \$6430

We wish to move forward with the approval process as quickly as possible. Construction is scheduled for completion in June and we shall provide a performance bond for work remaining at the time of approval.

Please let me know if there is additional information to be provided.

Sincerely,

Jean Gorton
Vice President

JG/lm

Enclosures

copy: Tom Rosenberg
letter only



The Trillium Corporation

4183 Meridian Street
Bellingham, Wa. 98226
(206) 676-9400

CITY OF BELLINGHAM

MAR 10 1986

**PLANNING & ECONOMIC
DEPT.**

March 7, 1986

Ms. Vicki Matheson
City Planning Office
210 Lottie Street
Bellingham, WA 98225

Dear Vicki:

Please note Sections 2.6 and 4.2(f) to see if the revisions address your request for including maintenance of the storm drainage bio-filters and the 50 foot set back from the marsh.

Call me if you have questions or further suggestions.

Sincerely,


Jean Gorton
Vice President

JG:das
cc: Faruk Taysi

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
OF THE PLAT OF "BRIZA"A. RECITALS.

This Declaration is made with reference to the following facts and conditions:

1. The undersigned Declarant is the owner in fee simple of the following described real estate property in Whatcom County, Washington:

THE PLAT OF BRIZA, CITY OF BELLINGHAM, COUNTY OF WHATCOM,
STATE OF WASHINGTON.

2. Declarant intends to ensure that construction of single-family homes within this subdivision is in conformance with the requirements and restrictions of the June 18, 1984, City of Bellingham Resolution accepting the Preliminary Plat hereof; and

3. Declarant desires to provide the means to enforce the rights, reservations, easements, liens and charges provided in this Declaration, and for necessary maintenance and to provide for a community organization consisting of a non-profit community Association that includes as members those who purchase any lot, tract or parcel within this subdivision.

B. DECLARATION.

The Declarant hereby certifies and declares that the following conditions, covenants and restrictions shall endure and be binding upon the respective owners of each lot, and further declares that all of the property within the Plat of Chuckanut Bay described herein is held, and shall be held, conveyed, encumbered, leased, rented, used, occupied and improved subject to the following limitations, restrictions, conditions and covenants for the purpose of enhancing and protecting the value, desirability and attractiveness of the subdivision and every part thereof. All of the following limitations, restrictions, conditions and covenants shall run with the land and shall be binding on all parties having or acquiring any right, title or interest in the subdivision or any part thereof.

1. LAND CLASSIFICATION AND DEFINITIONS.

The following words and classifications of land shall have the following meanings under this agreement.

1.1 Lot: Any parcel of real property within the boundaries of the subdivision identified by Arabic numerals and designated for the location and construction of a single-family residence.

1.2 Owner: Any person, firm or corporation holding either fee title or a vendee's interest under a real estate contract as shown by the records of Whatcom County, Washington, to the exclusion of any lessor's interest.

1.3 Person: Any individual, firm, corporation, partnership, association, unincorporated association or organization, or political subdivision thereof.

1.4 Declarant: Declarant is The Trillium Corporation, its successors and any assigns engaged in land development and/or wholesale land sale activities in Whatcom County, Washington, or some portion thereof.

1.5 Common Properties: Real property owned by the Association or dedicated on the face of the Plat map for common use and enjoyment of the lot owners and members of the Association, including all roads, paths and walkways.

1.6 Annual Charge: The sum of (1) the yearly assessment against the assessable property; (2) the interest on any delinquent charges imposed; (3) the cost of any maintenance or repair work required to be performed by the owner but not so performed and performed instead by the Association; and (4) the cost of enforcing the lien imposed hereunder upon such assessable property.

1.7 Assessable Property: Each individual lot, together with any easement or common area which may be assessed for taxes by the City of Bellingham or its successor in interest.

1.8 Improvements: Improvements shall mean and include, without limitation, buildings, out-buildings, roads, driveways, parking areas, fencing, retaining walls, swimming pools, screening, walls, ornamentation, signs, stairs, decks, hedges, wind breaks, plantings, planted trees, shrubs, poles, lighting, hot tubs and all other structures or landscaping.

1.9 Resident: (1) each person lawfully residing on or in any part of the assessable property; and (2) members of the immediate family of each such person actually living in the same household with such person.

1.10 Board: The Board of Trustees, Board of Directors, or other governing body of the Association.

2. RESERVATIONS

2.1 Reservation of Easements: Easements for drainage, sewers, water pipes and utilities, facilities and service (including but not limited to water supply, electricity, gas, telephone, television) are hereby reserved over, under, upon, in and through all roadways and walkways, and over, under, upon and through certain portions of lots, tracts or parcels as shown on the Final Plat map of said Plat in which to install, lay, construct, repair, renew, operate, maintain and inspect underground pipes, sewers, conduits, cables, wires and all necessary facilities and equipment for the purpose of serving said Plat, together with the right to enter upon said easement areas, lots, tracts, parcels, roads and walkways for or pertaining to the aforesaid. This reservation of easement is for the benefit of Declarant and its successors in interest, the City of Bellingham, Puget Power, Cascade Gas, Northwest Bell, Nationwide Cablevision.

2.2 Reservation of Alley Serving Lots 2 through 21: The interior road

or alley serving Lots 2 through 21 of this Plat and accessing the main access road of this Plat east of Lot 5 shall be conveyed by the Declarant in trust to the Community Association and held by the Community Association for the benefit of Lots 2 through 21 as set forth below. The conveyance is to be made when the alley has been accepted as completed by the City of Bellingham Engineering Department and after the Association has come into existence. Upon conveyance of the alley to the Community Association, each of Lots 2 through 21 shall share equally in the cost of maintenance and repair of this alley. The Community Association hereinafter established shall be responsible for collecting assessments from these lots for this purpose.

2.3 Reservation of Alley for Serving Lots 52 through 58. The interior road or alley serving Lots 52 through 58 of this Plat and accessing the main access road of this Plat east of Lot 5 shall be conveyed by the Declarant in trust to the Community Association and held by the Community Association for the benefit of Lots 52 through 58 as set forth below. The conveyance is to be made when the alley has been accepted as completed by the City of Bellingham Engineering Department and after the Association has come into existence. Upon conveyance of the alley to the Community Association, each of lots 52 through 58 shall share equally in the cost of maintenance and repair of this alley. The Community Association hereinafter established shall be responsible for collecting assessments from these lots for this purpose.

2.4 Reservation of Pedestrian Walkways. All pedestrian walkways shown on said Plat shall be improved to facilitate pedestrian access. Declarant agrees to convey these pedestrian walkways to the Association after improvements are completed and the Association comes into existence. Upon conveyance of such internal pedestrian easements leading to open space areas, the Community Association shall thereafter be responsible for the maintenance and upkeep of such internal pedestrian walkways.

2.5 Reservation of Common Open Space. All areas identified on the face of this Plat as common open space are hereby conveyed to the Community Association, and the Community Association shall be responsible for the maintenance and upkeep of the common open space. The Community Association shall assess each lot an equal portion for any maintenance and upkeep associated with the common open space area or areas, including, but not limited to, costs associated with brush control, trash removal and weed control.

2.6 Reservation of Drainage Easements and the Right to Drain. The Declarant hereby reserves the right to drain all roadways, walkways, easement ways and areas over and across any lot or lots, blocks, tracts and parcels where water might take a natural course after the grading thereof. The two drainage easements designated within this Plat and acting as biofilters between the storm drain outfalls and the marsh shall be maintained as meandering grass lined swales. These easements are conveyed to the Community Association, and the Community Association shall be responsible for the maintenance of the swales, including regular cleaning to remove sediments, and the replanting of grass and the placement of new rock as necessary to ensure effective operation.

2.7 Sales Office. The Declarant reserves the right to maintain a sales office on a lot to be designated by the Declarant within this Plat for the

purpose of selling and re-selling lots within this Plat; provided, that the sales activity shall be limited to the sale or resale of lots within this Plat. Declarant reserves the right to place and maintain "for sale" signs on any lot within the said Plat as may be prepared and erected by the Declarant.

3. GENERAL USE RESTRICTIONS AND REQUIREMENTS.

3.1 All lots within the subdivision shall be used exclusively for permanent residential purposes.

3.2 All boats, utility trailers, trucks of more than one-ton capacity, campers, travel trailers, motorhomes and similar items or vehicles, shall not be operated, maintained or kept upon any lot or parking area, but shall at all times be enclosed in a garage or otherwise hidden from view; provided, that out-of-county guests of an owner may, with the owner's permission, park a recreational vehicle or travel trailer on the owner's lot and completely off the street for up to four (4) weeks.

3.3 No firearms, fireworks or explosives shall be discharged within the boundaries of the subdivision.

3.4 No animals, livestock or poultry of any kind shall be raised, bred or kept on any lot, except dogs, cats or other house-hold pets may be kept, provided they are not kept, bred or maintained for commercial purposes.

3.5 No signs or billboards shall be placed upon any lot except that one identification sign bearing the owner's name may be placed upon the owner's lot. Nevertheless, the Declarant may display post signs, billboards and other advertising materials in or about any unsold lots until all lots in the subdivision have been sold by Declarant, and Declarant may subsequently advertise the property for sale.

3.6 No lot owner shall deposit or permit the accumulation of any trash, ashes, garbage or other refuse or debris on or about the subdivision, but shall deposit same in covered trash receptacles.

3.7 No outside incinerators or other equipment for the disposal of rubbish, trash, garbage or other waste material shall be used within the subdivision, with the exception that covered compost heaps may be maintained according to conditions of 3.8.

3.8 Each lot owner shall keep his lot neat and orderly in appearance, and shall not cause or permit any noxious, odorous or tangible objects which are unsightly in appearance to exist on the premises.

3.9 All automobiles and all other permitted vehicles, if kept or parked on any lot, shall be in good order and working condition. Partially wrecked vehicles, discarded vehicles or vehicles which are in a state of disrepair shall not be kept on any lot, unless enclosed in a garage or otherwise completely hidden from view.

3.10 No television or radio antennas of any kind which extend more than ten (10) feet above the roofline of the residence shall be permitted on any

lot or structure nor shall any satellite or "dish" antennas be permitted on any lot or structure.

3.11 Further subdivision of lots is hereby prohibited except (1) where lots of equivalent or larger size are created; or (2) if area is exchanged between adjoining lots without the creation of an additional lot.

3.12 Boundary line fences may be erected and maintained from the rear corner line of the main structure and extending toward the rear of the lot. No boundary line fences extending forward and toward the street from the rear corner line of the main structure shall be permitted except those composed of living materials only, such as hedges, shrubs or trees. Boundary line fences composed of "cyclone" type fencing materials, wire mesh or wire of any kind shall be prohibited. For lots accessed by alleys, front yard is defined as that part of the yard between Sea Crest Road and the nearest plane of the main structure.

3.13 In order that existing views from individual lots may be projected to the extent practicable, no trees or shrubs may be planted which are capable of attaining a height of thirty (30) feet or more upon maturity, unless planted to replace a similar tree or shrub which existed at the time of original conveyance of the lot on which the tree is placed.

4. CONSTRUCTION

4.1 Time for Completion. Construction of all buildings shall be prosecuted diligently from commencement of work until the exterior is completed and painted and all sanitation and health requirements have been fulfilled. The maximum time limit for the completion of the building shall be twelve (12) months from the date construction commences, which is defined as the date building materials are first delivered to the property. Construction shall not be deemed completed until the lawn (bark or ground cover) and shrubs have been properly seeded and the lot has been cleaned up, rendered free of debris and placed in reasonable condition.

4.2 Construction Requirements. All single-family home construction within this Plat is subject to the following provisions and restrictions, to be enforced by appropriate City agencies:

(a) All footing excavations must be inspected by a geotechnical engineer prior to pouring concrete to determine if adequate bearing has been achieved.

(b) Any cut and fill slopes exceeding 2 (horizontal):1 (vertical) must be evaluated for stability by a geotechnical engineer.

(c) Neighbors must be notified when blasting is to occur, and blasting shall be restricted to daylight hours.

(d) Individual fire sprinkler systems may be required by the fire marshall.

(e) Provisions shall be made at each construction site to control erosion, such as temporary settling basins, straw bales, seeding, mulching

steep slopes and shielding excavations through the use of material such as visquine.

(f) Lots 35 through 42 shall have a 50 foot building set back from the rear property line adjacent to the marsh. This area shall be maintained with vegetative materials and no filling or grading shall occur.

4.3 Height Restrictions. Height of structures erected on lots shall be restricted as follows or pursuant to the terms of any applicable City ordinance provision in effect at the time of application for a building permit, whichever is more stringent.

(a) No structure shall exceed thirty five (35) feet under height definition #1 or twenty (20) feet under height definition #2.

Definition #1: The verticle distance from the average finished grade to the average height of the highest gable of a pitch or hip roof;

Definition #2: The verticle distance measured from the highest point on the building site to the average elevation of the highest gable of a pitch or hip roof.

5. DESIGN REVIEW COMMITTEE.

5.1 General. Design review and control shall be accomplished by a Design Review Committee, which shall be composed of one owner's representative, one architect, one engineer, and two lot owners, and/or such person as they or the Declaration shall designate in writing. Fees for participation by the designated architect and engineer shall be paid by the lot owners submitting plans for review. No fees shall be charged by the Declarant or other lot owners. No building shall be erected, placed or altered on any lot until the construction plans, specifications and plans showing the location of the structure have been approved by the Committee as to the quality of materials, haromony of external design with existing structures, and location with respect to topography and finished grade elevation.

5.2 Approval/Disapproval. The Committee shall approve or disapprove plans, specifications, and details, including specified color finish, within thirty (30) days following receipt. Plans, specifications and details which are not approved or disapproved within thirty (30) days shall be deemed approved as submitted. Two (2) sets of plans, specifications, and details, including exterior color finish must be submitted. One (1) such set shall be returned to the person submitting them with the approval or disapproval endorsed on them. The other copy shall be retained by the Committee for its permanent files.

The Committee shall have the right to disapprove any plans, specifications or details in the event the same are not in accordance with all the provisions of this Declaration, if the design or color scheme of the proposed building or other structure is not in harmony with the general surroundings of such lots or with the adjacent buildings or structures, if the plans and specifications are incomplete, or in the event the Committee decides that the plans, specifications, details or any part of them are contrary to the interest,

welfare or rights of any owner or owners. The decisions of the Committee shall be final.

5.3 Conditional Approval. Any approval by the Committee may be conditioned upon compliance by the applicant with any reasonable condition which it deems appropriate, including, but not limited to, the posting of bonds or other acceptable security to secure performance by the applicant in accordance with the plans and specifications being approved.

5.4 No Liability. Neither the Committee or any person who succeeds it shall be liable to any party for any action or for any failure to act under or pursuant to the provisions of this Declaration, provided, that the Committee or its successor proceeds in good faith and without malice.

5.5 Expiration. Neither the Committee nor any members appointed to it shall have any responsibility with regard to these covenants after five (5) years from the date hereof or when Declarant no longer owns any of the lots in the subdivision, whichever occurs later. If a Community Association composed of the owners of not less than sixty percent (60%) of the lots is then or thereafter in existence, it may appoint, in accordance with its By-Laws, successors to the members of the Committee, who shall thereafter exercise its powers. The By-Laws may provide for resolutions of disputes through arbitration.

6. COMMUNITY ASSOCIATION.

The Declarant shall form a community organization to include as members all purchasers of any lot within this Plat. This organization shall be a non-profit corporation under Title 24 of the Revised Code of Washington, and shall be known as "Briza Community Association".

6.1 Purpose. Among the objectives and purposes of the Community Association shall be the furtherance and promotion of the common welfare of the purchasers of any lot, tract or parcel; the regulation, use, care, construction, operation, repair and maintenance and preservation of walkways, common areas and easements in this plat for which there is a private maintenance obligation to be shared in common by Association members according to the terms hereof; and the regulation, maintenance and repair of facilities thereon and such other facilities, equipment, activities, objects and purposes pertaining to the welfare, enjoyment, social well-being and protection and benefit of the members and their property in this plat, including but not limited to the operation and maintenance of and use of property held or controlled by the Community Association; payment of taxes on common areas and improvements; the furnishing of protection, drainage, and the like for the common good.

6.2 Creation and Transfer of Control. The Community Association shall be organized at the instance of the Declarant, and each purchaser of a lot shall be a member in the Community Association. The Declarant shall designate and appoint a Board of Trustees of the Community Association until such time as the Declarant has sold one hundred percent (100%) of the lots in this plat. When one hundred percent (100%) of the lots in this plat have been sold, the control of the Community Association shall be turned over to the members, and the members may elect from its number at large as provided in the Articles of

Incorporation and By-Laws the Board of Trustees. The Declarant, at its option, may at any time sooner turn over control of the Community Association.

6.3 Conveyances. The Declarant shall transfer and convey by deed all common areas, alleys, paths and walkways to the Community Association subject to the reservations impressed upon these properties by this Declaration. This conveyance shall be made after the Association has been created and improvements have been completed. At such time as the Declarant conveys the common open space, drainage systems, alleys, paths and walkways to the Community Association, the Community Association shall thereafter be responsible for the maintenance and upkeep of the alleys, drainage systems, paths, walkways and other common areas. In like manner, the Community Association shall be responsible for maintaining all of the storm drainage system within the Plat.

6.4 Assessments and Liens.

(a) Authority. The Community Association shall be empowered to establish and collect dues and assessments upon lots in this plat for the common benefit of such lots.

(b) Objects. The objects for which dues and assessments may be made and collected include utilities, roadways, drainage, property protection, landscaping, insurance, improvements, payment of taxes upon common property, the holding of ownership or a lease-hold interest therein or for any other common purposes, all as determined pursuant to the Articles and By-Laws of the Community Association.

(c) Personal Obligation and Lien Foreclosure. Such assessments shall constitute a personal obligation of any lot owner of record on the due date thereof, and shall also constitute a lien on the lot assessed. Such lien may be foreclosed by the Community Association in the same form and manner of procedure as the foreclosure of real property mortgage liens under the laws of the State of Washington.

(d) Amounts Included. Each owner and each party hereinafter owning or claiming an interest in one or more lots agrees that in the event of such a foreclosure action, the owner or party will pay the Association's expenses of title examination and insurance, the cost of attorney's fees incurred by the Community Association, and court costs. Interest at eight percent (8%) per annum shall be included along with the amount of delinquent assessment in the judgment of foreclosure of such lien.

(e) Manner of Assessment. Assessments shall be assessed and collected on a fair and uniform basis as among lots, tracts, or parcels subject thereto, by the By-Laws of the Community Association between improved lots and unimproved lots.

(f) Other Liens and Foreclosure Actions. The method and manner provided for foreclosure of liens in this paragraph shall pertain to all liens referred to in these covenants. First mortgage liens placed upon any of said lots for the purpose of constructing a residence or other liens provided for by the laws of the State of Washington, shall be, from the date of recordation of such, superior to any and all charges, assessments and liens imposed

pursuant to this Declaration.

6.5 Establishment and Assessment of Charges. For the purpose of providing funds for uses specified herein, the Board shall for each year, commencing with the calendar year 1987, fix and assess a yearly assessment against the assessable property. The assessment shall be equal to a certain number of dollars and cents per individual lot recorded on the final plat, except that any unsold lot in the Declarant's initial inventory of lots shall not be assessed the annual assessment for a period of four (4) calendar years beginning January 1, 1987, or until the individual lot is sold.

6.6 Annual Statement. As soon as shall be practicable in each year, the Association shall send a written statement to each owner providing the number of dollars and cents assessed by the Board as the yearly assessment for the year in question, stated in terms of the total sum due and owing as the annual charge. The Association may, however, in its sole discretion determine to bill the annual charge in monthly installments, with or without a service charge as the Association may determine.

6.7 Penalty on Delinquent Assessment. If an owner shall fail to pay any installment of the annual charge within thirty (30) days from the date of issuance of the statement therefor, the same shall be deemed delinquent and will bear a penalty to be determined by the Community Association.

6.8 Delinquency for More than Ninety (90) Days. If the owner of any assessable lot shall fail to pay the annual charge or any installment therefor within ninety (90) days following the date of issuance of the statement therefor, the Association shall have the right to sue such owner for a personal judgment and, in addition, shall have the right to enforce the lien, hereinafter imposed. The amount due by such owner shall include the unpaid annual charge or installment thereof as well as the cost of such proceedings, including reasonable attorneys' fees, and the aforesaid penalty.

6.9 Rules and Procedures for Billing and Collecting Assessments. The Board shall have power and authority to adopt rules and procedures respecting the billing and collection of the annual charges, which shall be binding on all the owners.

6.10 Increase in Assessments. The amount of the assessment against each lot shall be initially determined and may thereafter be increased or decreased for any period of one (1) year or more, by the affirmative vote of at least fifty one percent (51%) of the voting members of the Association, represented in person or by proxy and entitled to vote, at a meeting, annual or special, called for such purpose.

6.11 Application of Assessment. The Association shall apply all funds received by it pursuant to these restrictions in the order stated:

(a) Administrative costs and expenses incurred by the Association in the exercise of its powers, authority and duties described in these Articles;

(b) The promotion of the recreation, health, safety, enjoyment and welfare of the users of the common property, and the enhancement of the values

of the property by means of construction, repair, maintenance, operation and administration of the common property, including, but not limited to, the payment of taxes and insurance premiums on the common property.

(c) The service, repair, maintenance or replacement of any and all improvements, but not limited to fences, roads, pathways, drainage and lighting belonging to the Association.

6.12 Authority to Maintain Surplus. The Association shall not be obligated to spend in any particular time period all the sums collected or received by it in such time period or any other time period. The Association may carry forward, as surplus, any balances remaining. The Association shall not be obligated to apply any such surpluses to the reduction of the amount of the annual charge in any year.

7. PROTECTION OF MORTGAGE OR DEED OF TRUST HOLDER.

No violation or breach of any restriction, covenants or condition contained in this Declaration or any supplemental Declaration, and not action to enforce the same shall defeat, render invalid or impair the lien of any mortgage or deed of trust taken in good faith and for value of the title or interest of the holder thereof or the title acquired by any purchaser upon foreclosure of any such mortgage or deed of trust. Any such purchaser shall, however, take subject of this Declaration and any supplemental Declaration, except only that violations or breaches which occurred prior to such foreclosure shall not be deemed breaches or violations hereof.

8. ENFORCEMENT

All disputes concerning compliance with use standards or concerning the terms of this Declaration may be decided by arbitration. Once a party appoints an arbitrator, he or she shall be deemed to have irrevocably submitted to arbitration and to have irrevocably agreed to be bound by the decision reached by the arbitration panel. The party seeking enforcement or interpretation of this Declaration shall appoint one (1) arbitrator. The other party shall appoint a second arbitrator and the two so selected shall appoint a third. In the event the two arbitrators initially appointed are unable to select a third arbitrator within (3) weeks following their appointment, such arbitrator shall be appointed by the presiding Judge of the Whatcom County Superior Court. All arbitrators appointed shall be attorneys engaged in the private practice of law. The arbitrators so appointed shall take such testimony on the question before them as they shall deem appropriate and their decision shall be binding upon all parties and on the Association. The arbitration shall be accomplished in accordance with the applicable rules of the American Arbitration Association. All decisions of the panel shall be by majority vote. The cost and expenses of arbitration shall be borne equally by the parties.

In the event that either party refuses to submit to arbitration, the Association, the Declarant and each lot purchaser shall have the right to enforce, by any proceedings at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by this Declaration. Failure of the Association, the Declarant or any lot owner or contract purchaser to enforce any covenant or restriction in this Declaration shall not be deemed a waiver of the right to do so thereafter. The prevailing parties in any litigation involving the enforcement of these covenants shall be awarded a reasonable attorney's fee and court costs.

9. GRANTEE'S ACCEPTANCE.

The grantee of any lot subject to the coverage of these Declarations by acceptance of a deed conveying title thereof, or the execution of a contract for the purchase thereof, whether from Declarant or a subsequent owner of such lot, shall accept such deed or contract upon and subject to each and all of these Declarations and the agreements herein contained, and also the jurisdiction, rights and powers of Declarant, and by such acceptance, shall for himself, his heirs, personal representative, successors and assigns, covenant, consent and agree to and with Declarant, and to and with the grantees and subsequent owners of each of the lots within the subdivision, to keep, observe, comply with and perform said Declarations and agreements.

Each such grantee also agrees, by such acceptance, to assume, as against Declarant, its successors or assigns, all the risks and hazards of ownership and occupancy attendant to such lot, including but not limited to its proximity to any parks, children's recreational facilities, public paths, streams or other water courses.

10. AMENDMENT TO DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS.

The covenants and restrictions of this Declaration shall run with and bind with the land and shall inure to the benefit of and be enforced by the Association, the Declarant, the owners or contract purchasers of any lots subject to any Declaration, their respective legal representatives, heirs, successors and assigns for a period of thirty (30) days from the date of this Declaration as recorded, after which time said covenants shall be automatically extended for successive periods of ten (10) years, unless an instrument terminating these covenants is signed by not less than seventy five percent (75%) of the property owners or contract purchasers, which instrument shall then be filed for record with the Whatcom County Auditor's office. These covenants and restrictions may be amended by an instrument signed by not less than the owners or contract purchasers, including the Declarant during the first ten year period, then owning seventy-five percent (75%) of the property subject to this Declaration; provided, Article 4.2 and 4.4 may not be altered or amended as provided herein without the express written consent of the City of Bellingham. An amendment shall take effect upon approval as provided herein and when it has been recorded with the Whatcom County Auditor's Office.

11. SEVERABILITY.

In the event that any of these covenants, conditions and restrictions is

determined by judgment or court order to be invalid, the remaining portion or portions of this Declaration shall in no way be affected.

12. PARAGRAPH HEADINGS.

The paragraph headings in this instrument are for convenience only and shall not be considered in construing this Declaration.

13. NO WAIVER.

Failure to enforce any restriction, covenant or condition in this Declaration or any supplemental Declaration shall not operate as a waiver of any such restriction, covenant or condition or of any other restriction, covenant or condition.

DATED this 9 day of April, 1986.

TRILLIUM CORPORATION
a Washington corporation

By David R. Syre
David R. Syre
Its President

By Ken Hertz
Its Secretary

STATE OF WASHINGTON)
) ss.
COUNTY OF WHATCOM)

On this 9 day of April, 1986, before me, the undersigned, a Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared David R. Syre and Ken Hertz to me known to be the President and Secretary, respectively, of TRILLIUM CORPORATION, a Washington corporation, 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 they are authorized to execute the said instrument.

WITNESS my hand and official seal, the day and year first above written.

Deborah A. Servon
Notary Public in and for the State of
Washington, residing in Bellingham



The Trillium Corporation

4183 Meridian Street
Bellingham, Wa. 98226
(206) 676-9400

January 29, 1986

Mr. William Geyer, Director
Dept. Planning and Economic Development
210 Lottie Street
Bellingham, WA 98225

Dear Mr. Geyer:

RE: BRIZA SUBDIVISION

As we approach final construction of the Briza subdivision, there are several small matters that need attention. Our schedule is to submit the final plat for review by the first of April, once all the underground work is complete and easement locations are set.

I am enclosing a draft copy of the Covenants, Conditions and Restrictions for City review. I would appreciate comments and recommendations by February 28 for inclusion in the final version. We plan to begin marketing the lots for advance reservations during February, and the C, C & R's are always of concern to prospective lot owners.

The Preliminary Plat Resolution adopted by the City Council on June 18, 1984, was intended to be revised following the gift/sale of lands to the City and the consequent revisions to the plat. Vickie Matheson, Ian Sievers, and I worked on revisions last fall, but I am not aware that a new resolution was ever prepared or acted upon.

The needed revisions include the following changes and deletions.

- page 1 The property is now 34 rather than 47 acres in size.
- page 2 The legal description has changed.
- page 4 Sections B.1. and B.2. are no longer applicable and should be deleted.
- page 5 There is no longer a north/south street and B.8. should be deleted.
- page 6 B.9. should also be deleted based on the absence of such a street.
- page 6 Section C.1. should reflect the relocation of the sewer pump station.

Mr. William Geyer
January 29, 1986
Page Two

- page 7 D.1. and D.2. should be revised to reflect that all water lines are 8 inch, and no loops are being made.
- page 8 The last sentence of Section E.3. should be deleted based on the storm drainage changes.
- page 8 Now that the City has acquired the tideflats, Section F.3. should be deleted.

In addition to the above changes resulting from the park property acquisition by the City, there are two proposals for additional language. We had, I believe, agreed that something would be added to verify that the open space requirements for the Cluster Subdivision had been met by the donation of land to the City. Second, we would like to construct and maintain entry signage and landscaping within the right-of-way, to specifications approved by the City Engineer.

The third matter, on which I shall continue to work with Byron Elmendorf, is the City purchase/Trillium donation of the final seven acres of uplands. The sewer and water lines are now in the ground, ready to hook up to the City lines this summer. I am hopeful we can conclude that transaction soon.

If there is anything else that we should attend to prior to Final Plat submittal, please let me know as soon as possible.

Thank you for your assistance.

Sincerely,



Jean Gorton
Vice President

JG:das

cc: Byron Elmendorf
Tom Rosenberg
Ian Sievers

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
OF THE PLAT OF "BRIZA"

A. RECITALS.

This Declaration is made with reference to the following facts and conditions:

1. The undersigned Declarant is the owner in fee simple of the following described real estate property in Whatcom County, Washington:

THE PLAT OF BRIZA, CITY OF BELLINGHAM, COUNTY OF WHATCOM,
STATE OF WASHINGTON.

2. Declarant intends to ensure that construction of single-family homes within this subdivision is in conformance with the requirements and restrictions of the June 18, 1984, City of Bellingham Resolution accepting the Preliminary Plat hereof; and

3. Declarant desires to provide the means to enforce the rights, reservations, easements, liens and charges provided in this Declaration, and for necessary maintenance and to provide for a community organization consisting of a non-profit community Association that includes as members those who purchase any lot, tract or parcel within this subdivision.

B. DECLARATION.

The Declarant hereby certifies and declares that the following conditions, covenants and restrictions shall endure and be binding upon the respective owners of each lot, and further declares that all of the property within the Plat of Chuckanut Bay described herein is held, and shall be held, conveyed, encumbered, leased, rented, used, occupied and improved subject to the following limitations, restrictions, conditions and covenants for the purpose of enhancing and protecting the value, desirability and attractiveness of the subdivision and every part thereof. All of the following limitations, restrictions, conditions and covenants shall run with the land and shall be binding on all parties having or acquiring any right, title or interest in the subdivision or any part thereof.

1. LAND CLASSIFICATION AND DEFINITIONS.

The following words and classifications of land shall have the following meanings under this agreement.

1.1 Lot: Any parcel of real property within the boundaries of the subdivision identified by Arabic numerals and designated for the location and construction of a single-family residence.

1.2 Owner: Any person, firm or corporation holding either fee title or a vendee's interest under a real estate contract as shown by the records of Whatcom County, Washington, to the exclusion of any lessor's interest.

1.3 Person: Any individual, firm, corporation, partnership, association, unincorporated association or organization, or political subdivision thereof.

1.4 Declarant: Declarant is The Trillium Corporation, its successors and any assigns engaged in land development and/or wholesale land sale activities in Whatcom County, Washington, or some portion thereof.

1.5 Common Properties: Real property owned by the Association or dedicated on the face of the Plat map for common use and enjoyment of the lot owners and members of the Association, including all roads, paths and walkways.

1.6 Annual Charge: The sum of (1) the yearly assessment against the assessable property; (2) the interest on any delinquent charges imposed; (3) the cost of any maintenance or repair work required to be performed by the owner but not so performed and performed instead by the Association; and (4) the cost of enforcing the lien imposed hereunder upon such assessable property.

1.7 Assessable Property: Each individual lot, together with any easement or common area which may be assessed for taxes by the City of Bellingham or its successor in interest.

1.8 Improvements: Improvements shall mean and include, without limitation, buildings, out-buildings, roads, driveways, parking areas, fencing, retaining walls, swimming pools, screening, walls, ornamentation, signs, stairs, decks, hedges, wind breaks, plantings, planted trees, shrubs, poles, lighting, hot tubs and all other structures or landscaping.

1.9 Resident: (1) each person lawfully residing on or in any part of the assessable property; and (2) members of the immediate family of each such person actually living in the same household with such person.

1.10 Board: The Board of Trustees, Board of Directors, or other governing body of the Association.

2. RESERVATIONS

2.1 Reservation of Easements: Easements for drainage, sewers, water pipes and utilities, facilities and service (including but not limited to water supply, electricity, gas, telephone, television) are hereby reserved over, under, upon, in and through all roadways and walkways, and over, under, upon and through

certain portions of lots, tracts or parcels as shown on the Final Plat map of said Plat in which to install, lay, construct, repair, renew, operate, maintain and inspect underground pipes, sewers, conduits, cables, wires and all necessary facilities and equipment for the purpose of serving said Plat, together with the right to enter upon said easement areas, lots, tracts, parcels, roads and walkways for or pertaining to the aforesaid. This reservation of easement is for the benefit of Declarant and its successor in interest, the City of Bellingham.

2.2 Reservation of Alley Serving Lots 2 through 21: The interior road

or alley serving Lots 2 through 21 of this Plat and accessing the main access road of this Plat east of Lot 5 shall be conveyed by the Declarant in trust to the Community Association and held by the Community Association for the benefit of Lots 2 through 21 as set forth below. The conveyance is to be made when the alley has been accepted as completed by the City of Bellingham Engineering Department and after the Association has come into existence. Upon conveyance of the alley to the Community Association, each of Lots 2 through 21 shall share equally in the cost of maintenance and repair of this alley. The Community Association hereinafter established shall be responsible for collecting assessments from these lots for this purpose.

2.3 Reservation of Alley for Serving Lots 52 through 58. The interior road or alley serving Lots 52 through 58 of this Plat and accessing the main access road of this Plat east of Lot shall be conveyed by the Declarant in trust to the Community Association and held by the Community Association for the benefit of Lots 52 through 58 as set forth below. The conveyance is to be made when the alley has been accepted as completed by the City of Bellingham Engineering Department and after the Association has come into existence. Upon conveyance of the alley to the Community Association, each of lots 52 through 58 shall share equally in the cost of maintenance and repair of this alley. The Community Association hereinafter established shall be responsible for collecting assessments from these lots for this purpose.

2.4 Reservation of Pedestrian Walkways. All pedestrian walkways shown on said Plat shall be improved to facilitate pedestrian access. Declarant agrees to convey these pedestrian walkways to the Association after improvements are completed and the Association comes into existence. Upon conveyance of such internal pedestrian easements leading to open space areas, the Community Association shall thereafter be responsible for the maintenance and upkeep of such internal pedestrian walkways.

2.5 Reservation of Common Open Space. All areas identified on the face of this Plat as common open space are hereby conveyed to the Community Association, and the Community Association shall be responsible for the maintenance and upkeep of the common open space. The Community Association shall assess each lot an equal portion for any maintenance and upkeep associated with the common open space area or areas, including, but not limited to, costs associated with brush control, trash removal and weed control.

2.6 Reservation of Right to Drain. The Declarant hereby reserves the right to drain all roadways, walkways, easement ways and areas over and across any lot or lots, blocks, tracts and parcels where water might take a natural course after the grading thereof.

2.7 Sales Office. The Declarant reserves the right to maintain a sales office on a lot to be designated by the Declarant within this Plat for the purpose of selling and re-selling lots within this Plat; provided, that the sales activity shall be limited to the sale or resale of lots within this Plat. Declarant reserves the right to place and maintain "for sale" signs on any lot within the said Plat as may be prepared and erected by the Declarant.

3. GENERAL USE RESTRICTIONS AND REQUIREMENTS.

3.1 All lots within the subdivision shall be used exclusively for *DC* permanent residential purposes.

3.2 All boats, utility trailers, trucks of more than one-ton capacity, campers, travel trailers, motorhomes and similar items or vehicles, shall not be operated, maintained or kept upon any lot or parking area, but shall at all times be enclosed in a garage or otherwise hidden from view; provided, that out-of-county guests of an owner may, with the owner's permission, park a recreational vehicle or travel trailer on the owner's lot and completely off the street for up to four (4) weeks.

3.3 No firearms, fireworks or explosives shall be discharged within the *DC* boundaries of the subdivision.

3.4 No animals, livestock or poultry of any kind shall be raised, bred or kept on any lot, except dogs, cats or other house-hold pets may be kept, provided they are not kept, bred or maintained for commercial purposes. | *DC*

3.5 No signs or billboards shall be placed upon any lot except that one identification sign bearing the owner's name may be placed upon the owner's lot. Nevertheless, the Declarant may display post signs, billboards and other advertising materials in or about any unsold lots until all lots in the subdivision have been sold by Declarant, and Declarant may subsequently advertise the property for sale. *DC*

3.6 No lot owner shall deposit or permit the accumulation of any trash, ashes, garbage or other refuse or debris on or about the subdivision, but shall deposit same in covered trash receptacles. *DC*

3.7 No outside incinerators or other equipment for the disposal of rubbish, trash, garbage or other waste material shall be used within the subdivision, with the exception that covered compost heaps may be maintained according to conditions of 3.8. *DC*

3.8 Each lot owner shall keep his lot neat and orderly in appearance, and shall not cause or permit any noxious, odorous or tangible objects which are unsightly in appearance to exist on the premises. *DC*

3.9 All automobiles and all other permitted vehicles, if kept or parked on any lot, shall be in good order and working condition. Partially wrecked vehicles, discarded vehicles or vehicles which are in a state of disrepair shall not be kept on any lot, unless enclosed in a garage or otherwise completely hidden from view. *DC*

3.10 No television or radio antennas of any kind which extend more than ten (10) feet above the roofline of the residence shall be permitted on any lot or structure nor shall any satellite or "dish" antennas be permitted on any lot or structure. *DC*

3.11 Further subdivision of lots is hereby prohibited except (1) where lots of equivalent or larger size are created; or (2) if area is exchanged

between adjoining lots without the creation of an additional lot.

3.12 Boundary line fences may be erected and maintained from the rear corner line of the main structure and extending toward the rear of the lot. No boundary line fences extending forward and toward the street from the rear corner line of the main structure shall be permitted except those composed of living materials only, such as hedges, shrubs or trees. Boundary line fences composed of "cyclone" type fencing materials, wire mesh or wire of any kind shall be prohibited. For lots accessed by alleys, front yard is defined as that part of the yard between Sea Crest Road and the nearest plane of the main structure.

3.13 In order that existing views from individual lots may be projected to the extent practicable, no trees or shrubs may be planted which are capable of attaining a height of thirty (30) feet or more upon maturity, unless planted to replace a similar tree or shrub which existed at the time of original conveyance of the lot on which the tree is placed.

4. CONSTRUCTION

4.1 Time for Completion. Construction of all buildings shall be prosecuted diligently from commencement of work until the exterior is completed and painted and all sanitation and health requirements have been fulfilled. The maximum time limit for the completion of the building shall be twelve (12) months from the date construction commences, which is defined as the date building materials are first delivered to the property. Construction shall not be deemed completed until the lawn (bark or ground cover) and shrubs have been properly seeded and the lot has been cleaned up, rendered free of debris and placed in reasonable condition.

4.2 Construction Requirements. All single-family home construction within this Plat is subject to the following provisions and restrictions, to be enforced by appropriate City agencies:

(a) All footing excavations must be inspected by a geotechnical engineer prior to pouring concrete to determine if adequate bearing has been achieved.

(b) Any cut and fill slopes exceeding 2 (horizontal):1 (vertical) must be evaluated for stability by a geotechnical engineer.

(c) Neighbors must be notified when blasting is to occur, and blasting shall be restricted to daylight hours.

(d) Individual fire sprinkler systems may be required by the fire marshall.

(e) Provisions shall be made at each construction site to control erosion, such as temporary settling basins, straw bales, seeding, mulching steep slopes and shielding excavations through the use of material such as visquine.

4.3 Height Restrictions. Height of structures erected on lots shall be restricted as follows or pursuant to the terms of any applicable City

ordinance provision in effect at the time of application for a building permit, whichever is more stringent.

(a) No structure shall exceed thirty five (35) feet under height definition #1 or twenty (20) feet under height definition #2. *OK*

Definition #1: The verticle distance from the average finished grade to the average height of the highest gable of a pitch or hip roof; *OK*

Definition #2: The verticle distance measured from the highest point on the building site to the average elevation of the highest gable of a pitch or hip roof. *OK*

5. DESIGN REVIEW COMMITTEE.

5.1 General. Design review and control shall be accomplished by a Design Review Committee, which shall be composed of one owner's representative, one architect, one engineer, and two lot owners, and/or such person as they or the Declaration shall designate in writing. Fees for participation by the designated architect and engineer shall be paid by the lot owners submitting plans for review. No fees shall be charged by the Declarant or other lot owners. No building shall be erected, placed or altered on any lot until the construction plans, specifications and plans showing the location of the structure have been approved by the Committee as to the quality of materials, haromony of external design with existing structures, and location with respect to topography and finished grade elevation. *ND*

5.2 Approval/Disapproval. The Committee shall approve or disapprove plans, specifications, and details, including specified color finish, within thirty (30) days following receipt. Plans, specifications and details which are not approved or disapproved within thirty (30) days shall be deemed approved as submitted. Two (2) sets of plans, specifications, and details, including exterior color finish must be submitted. One (1) such set shall be returned to the person submitting them with the approval or disapproval endorsed on them. The other copy shall be retained by the Committee for its permanent files. *WIX*

The Committee shall have the right to disapprove any plans, specifications or details in the event the same are not in accordance with all the provisions of this Declaration, if the design or color scheme of the proposed building or other structure is not in harmony with the general surroundings of such lots or with the adjacent buildings or structures, if the plans and specifications are incomplete, or in the event the Committee decides that the plans, specifications, details or any part of them are contrary to the interest, welfare or rights of any owner or owners. The decisions of the Committee shall be final. *ND*

5.3 Conditional Approval. Any approval by the Committee may be conditioned upon compliance by the applicant with any reasonable condition which it deems appropriate, including, but not limited to, the posting of bonds or other acceptable security to secure performance by the applicant in accordance with the plans and specifications being approved. *WIX*

5.4 No Liability. Neither the Committee or any person who succeeds it shall be liable to any party for any action or for any failure to act under or pursuant to the provisions of this Declaration, provided, that the Committee or its successor proceeds in good faith and without malice. *NA*

5.5 Expiration. Neither the Committee nor any members appointed to it shall have any responsibility with regard to these covenants after five (5) years from the date hereof or when Declarant no longer owns any of the lots in the subdivision, whichever occurs later. If a Community Association composed of the owners of not less than sixty percent (60%) of the lots is then or thereafter in existence, it may appoint, in accordance with its By-Laws, successors to the members of the Committee, who shall thereafter exercise its powers. The By-Laws may provide for resolutions of disputes through arbitration. *NA*

6. COMMUNITY ASSOCIATION.

The Declarant shall form a community organization to include as members all purchasers of any lot within this Plat. This organization shall be a non-profit corporation under Title 24 of the Revised Code of Washington, and shall be known as "Briza Community Association".

6.1 Purpose. Among the objectives and purposes of the Community Association shall be the furtherance and promotion of the common welfare of the purchasers of any lot, tract or parcel; the regulation, use, care, construction, operation, repair and maintenance and preservation of walkways, common areas and easements in this plat for which there is a private maintenance obligation to be shared in common by Association members according to the terms hereof; and the regulation, maintenance and repair of facilities thereon and such other facilities, equipment, activities, objects and purposes pertaining to the welfare, enjoyment, social well-being and protection and benefit of the members and their property in this plat, including but not limited to the operation and maintenance of and use of property held or controlled by the Community Association; payment of taxes on common areas and improvements; the furnishing of protection, drainage, and the like for the common good.

6.2 Creation and Transfer of Control. The Community Association shall be organized at the instance of the Declarant, and each purchaser of a lot shall be a member in the Community Association. The Declarant shall designate and appoint a Board of Trustees of the Community Association until such time as the Declarant has sold one hundred percent (100%) of the lots in this plat. When one hundred percent (100%) of the lots in this plat have been sold, the control of the Community Association shall be turned over to the members, and the members may elect from its number at large as provided in the Articles of Incorporation and By-Laws the Board of Trustees. The Declarant, at its option, may at any time sooner turn over control of the Community Association.

6.3 Conveyances. The Declarant shall transfer and convey by deed all common areas, alleys, paths and walkways to the Community Association subject to the reservations impressed upon these properties by this Declaration. This conveyance shall be made after the Association has been created and improvements have been completed. At such time as the Declarant conveys the common open space, alleys, paths and walkways to the Community Association,

the Community Association shall thereafter be responsible for the maintenance and upkeep of the alleys, paths, walkways and other common areas. In like manner, the Community Association shall be responsible for maintaining all of the storm drainage system within the Plat.

6.4 Assessments and Liens.

(a) Authority. The Community Association shall be empowered to establish and collect dues and assessments upon lots in this plat for the common benefit of such lots.

(b) Objects. The objects for which dues and assessments may be made and collected include utilities, roadways, drainage, property protection, landscaping, insurance, improvements, payment of taxes upon common property, the holding of ownership or a lease-hold interest therein or for any other common purposes, all as determined pursuant to the Articles and By-Laws of the Community Association.

(c) Personal Obligation and Lien Foreclosure. Such assessments shall constitute a personal obligation of any lot owner of record on the due date thereof, and shall also constitute a lien on the lot assessed. Such lien may be foreclosed by the Community Association in the same form and manner of procedure as the foreclosure of real property mortgage liens under the laws of the State of Washington.

(d) Amounts Included. Each owner and each party hereinafter owning or claiming an interest in one or more lots agrees that in the event of such a foreclosure action, the owner or party will pay the Association's expenses of title examination and insurance, the cost of attorney's fees incurred by the Community Association, and court costs. Interest at eight percent (8%) per annum shall be included along with the amount of delinquent assessment in the judgment of foreclosure of such lien.

(e) Manner of Assessment. Assessments shall be assessed and collected on a fair and uniform basis as among lots, tracts, or parcels subject thereto, by the By-Laws of the Community Association between improved lots and unimproved lots.

(f) Other Liens and Foreclosure Actions. The method and manner provided for foreclosure of liens in this paragraph shall pertain to all liens referred to in these covenants. First mortgage liens placed upon any of said lots for the purpose of constructing a residence or other liens provided for by the laws of the State of Washington, shall be, from the date of recordation of such, superior to any and all charges, assessments and liens imposed pursuant to this Declaration.

6.5 Establishment and Assessment of Charges. For the purpose of providing funds for uses specified herein, the Board shall for each year, commencing with the calendar year 1987, fix and assess a yearly assessment against the assessable property. The assessment shall be equal to a certain number of dollars and cents per individual lot recorded on the final plat, except that any unsold lot in the Declarant's initial inventory of lots shall not be assessed the annual assessment for a period of four (4) calendar years beginning January 1, 1987, or until the individual lot is sold.

6.6 Annual Statement. As soon as shall be practicable in each year, the Association shall send a written statement to each owner providing the number of dollars and cents assessed by the Board as the yearly assessment for the year in question, stated in terms of the total sum due and owing as the annual charge. The Association may, however, in its sole discretion determine to bill the annual charge in monthly installments, with or without a service charge as the Association may determine.

6.7 Penalty on Delinquent Assessment. If an owner shall fail to pay any installment of the annual charge within thirty (30) days from the date of issuance of the statement therefor, the same shall be deemed delinquent and will bear a penalty to be determined by the Community Association.

6.8 Delinquency for More than Ninety (90) Days. If the owner of any assessable lot shall fail to pay the annual charge or any installment therefor within ninety (90) days following the date of issuance of the statement therefor, the Association shall have the right to sue such owner for a personal judgment and, in addition, shall have the right to enforce the lien, hereinafter imposed. The amount due by such owner shall include the unpaid annual charge or installment thereof as well as the cost of such proceedings, including reasonable attorneys' fees, and the aforesaid penalty.

6.9 Rules and Procedures for Billing and Collecting Assessments. The Board shall have power and authority to adopt rules and procedures respecting the billing and collection of the annual charges, which shall be binding on all the owners.

6.10 Increase in Assessments. The amount of the assessment against each lot shall be initially determined and may thereafter be increased or decreased for any period of one (1) year or more, by the affirmative vote of at least fifty one percent (51%) of the voting members of the Association, represented in person or by proxy and entitled to vote, at a meeting, annual or special, called for such purpose.

6.11 Application of Assessment. The Association shall apply all funds received by it pursuant to these restrictions in the order stated:

(a) Administrative costs and expenses incurred by the Association in the exercise of its powers, authority and duties described in these Articles;

(b) The promotion of the recreation, health, safety, enjoyment and welfare of the users of the common property, and the enhancement of the values of the property by means of construction, repair, maintenance, operation and administration of the common property, including, but not limited to, the payment of taxes and insurance premiums on the common property.

(c) The service, repair, maintainance or replacement of any and all improvements, but not limited to fences, roads, pathways, drainage and lighting belonging to the Association.

6.12 Authority to Maintain Surplus. The Association shall not be obligated to spend in any particular time period all the sums collected or

received by it in such time period or any other time period. The Association may carry forward, as surplus, any balances remaining. The Association shall not be obligated to apply any such surpluses to the reduction of the amount of the annual charge in any year.

7. PROTECTION OF MORTGAGE OR DEED OF TRUST HOLDER.

No violation or breach of any restriction, covenants or condition contained in this Declaration or any supplemental Declaration, and not action to enforce the same shall defeat, render invalid or impair the lien of any mortgage or deed of trust taken in good faith and for value of the title or interest of the holder thereof or the title acquired by any purchaser upon foreclosure of any such mortgage or deed of trust. Any such purchaser shall, however, take subject of this Declaration and any supplemental Declaration, except only that violations or breaches which occurred prior to such foreclosure shall not be deemed breaches or violations hereof.

8. ENFORCEMENT.

All disputes concerning compliance with use standards or concerning the terms of this Declaration may be decided by arbitration. Once a party appoints an arbitrator, he or she shall be deemed to have irrevocably submitted to arbitration and to have irrevocably agreed to be bound by the decision reached by the arbitration panel. The party seeking enforcement or interpretation of this Declaration shall appoint one (1) arbitrator. The other party shall appoint a second arbitrator and the two so selected shall appoint a third. In the event the two arbitrators initially appointed are unable to select a third arbitrator within (3) weeks following their appointment, such arbitrator shall be appointed by the presiding Judge of the Whatcom County Superior Court. All arbitrators appointed shall be attorneys engaged in the private practice of law. The arbitrators so appointed shall take such testimony on the question before them as they shall deem appropriate and their decision shall be binding upon all parties and on the Association. The arbitration shall be accomplished in accordance with the applicable rules of the American Arbitration Association. All decisions of the panel shall be by majority vote. The cost and expenses of arbitration shall be borne equally by the parties.

In the event that either party refuses to submit to arbitration, the Association, the Declarant and each lot purchaser shall have the right to enforce, by any proceedings at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by this Declaration. Failure of the Association, the Declarant or any lot owner or contract purchaser to enforce any covenant or restriction in this Declaration shall not be deemed a waiver of the right to do so thereafter. The prevailing parties in any litigation involving the enforcement of these covenants shall be awarded a reasonable attorney's fee and court costs.

9. GRANTEE'S ACCEPTANCE.

The grantee of any lot subject to the coverage of these Declarations by acceptance of a deed conveying title thereof, or the execution of a contract for the purchase thereof, whether from Declarant or a subsequent owner of such lot, shall accept such deed or contract upon and subject to each and all of these Declarations and the agreements herein contained, and also the jurisdiction, rights and powers of Declarant, and by such acceptance, shall for himself, his heirs, personal representative, successors and assigns, covenant, consent and agree to and with Declarant, and to and with the grantees and subsequent owners of each of the lots within the subdivision, to keep, observe, comply with and perform said Declarations and agreements.

Each such grantee also agrees, by such acceptance, to assume, as against Declarant, its successors or assigns, all the risks and hazards of ownership and occupancy attendant to such lot, including but not limited to its proximity to any parks, children's recreational facilities, public paths, streams or other water courses.

10. AMENDMENT TO DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS.

The covenants and restrictions of this Declaration shall run with and bind with the land and shall inure to the benefit of and be enforced by the Association, the Declarant, the owners or contract purchasers of any lots subject to any Declaration, their respective legal representatives, heirs, successors and assigns for a period of thirty (30) days from the date of this Declaration as recorded, after which time said covenants shall be automatically extended for successive periods of ten (10) years, unless an instrument terminating these covenants is signed by not less than seventy five percent (75%) of the property owners or contract purchasers, which instrument shall then be filed for record with the Whatcom County Auditor's office. These covenants and restrictions may be amended by an instrument signed by not less than the owners or contract purchasers, including the Declarant during the first ten year period, then owning seventy-five percent (75%) of the property subject to this Declaration; provided, Article 4.2 and 4.4 may not be altered or amended as provided herein without the express written consent of the City of Bellingham. An amendment shall take effect upon approval as provided herein and when it has been recorded with the Whatcom County Auditor's Office.

11. SEVERABILITY.

In the event that any of these covenants, conditions and restrictions is determined by judgment or court order to be invalid, the remaining portion or portions of this Declaration shall in no way be affected.

12. PARAGRAPH HEADINGS.

The paragraph headings in this instrument are for convenience only and shall not be considered in construing this Declaration.

13. NO WAIVER.

Failure to enforce any restriction, covenant or condition in this Declaration

or any supplemental Declaration shall not operate as a waiver of any such restriction, covenant or condition or of any other restriction, covenant or condition.

DATED this _____ day of _____, 1986.

TRILLIUM CORPORATION
a Washington corporation

By _____
David R. Syre
Its President

By _____
Its Secretary

STATE OF WASHINGTON)
)
) ss.
COUNTY OF WHATCOM)

On this _____ day of _____, 1986, before me, the undersigned, a Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared David R. Syre and _____ to me known to be the President and Secretary, respectively, of TRILLIUM CORPORATION, a Washington corporation, 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 they are authorized to execute the said instrument.

WITNESS my hand and official seal, the day and year first above written.

Notary Public in and for the State of
Washington, residing in Bellingham

City owned land

Number of Lots 59

1

Zoning R 1
Detached Cluster

BRUN-



CITY ATTORNEY, 210 Lottie St., Bellingham, Washington 98225
Telephone: (206) 676-6903

September 24, 1985

MEMO TO: Vickie Matheson, Planner I
FROM: Ian Sievers, Asst. City Attorney
SUBJECT: Reduction of BRISA Plat; Resolution Amendment

Since the plat amendment necessitated by the dedication of additional land to the City involves a removal of platted lots and rights of way serving these lots, it appears that the changes are in the nature of technical correction; recommendations as to the elements contained in BMC 18.16.080A made by the Planning Commission in its initial review should not be affected (but see last paragraph). I do not feel, therefore, that an additional Planning Commission hearing is required; rather, the corrected resolution can be forwarded to Council.

However, since the recommended action to Council involves a necessary change to the Commission's recommendation, a public hearing should be set before Council (18.16.090B) and I have so informed Jean Gorton.

I think a SEPA and TRC review of the amended plat need to be completed. If either indicates problems, the matter should be rescheduled before the Planning Commission.

Brick
Plat Resolution Changes

From Tom Yenton
5-22-83

Change:

- p. 1 - 34 Acres
- p. 2 Legal Descriptions
- p. 6 - portion of Pump Station - (Demand 8.)
- p. 7 - Water lines 8in. to provide suff. flow - 1000

Add:

- Open Space requirements for Center Subdivision met by donation of land to Park Dept.
- Entry signage and maintenance in City r-0-0-0
- Requirements for water lines, sewer lines + sanitation and areas for Pump Station maintenance

Delete:

- p. 4 - B-1, B-2.
- p. 5 - B-6 - shown in plat - delete last sentence
- p. 5 - B-8
- p. 6 - B-9
- p. 7 - D-1 D-2 - All lines are 8in.
- p. 8 - E-3 last sentence
- p. 8 - F-3



Planning / Hager

DEPARTMENT OF PUBLIC WORKS, 210 LOTTIE ST., BELLINGHAM, WASHINGTON 98225
Telephone (206) 676-6981

CITY OF BELLINGHAM
SEP 09 1985
PLANNING & ECONOMIC
DEVELOPMENT

MEMORANDUM OF UNDERSTANDING
FOR THE BRIZA SUBDIVISION

The memorandum of understanding is created for the purpose of accommodating the developers of the Briza Subdivision who are desirous of commencing construction of subdivision improvements prior to fulfilling all requirements set forth and contained in Resolution 41-1984 of the City of Bellingham.

Upon full execution of the memorandum of understanding:

1. The City of Bellingham shall approve Briza improvement plans and specifications and will issue a public works permit.
2. The developers shall comply with all of the conditions contained in Resolution 41-1984 to the satisfaction of the City of Bellingham. The developer acknowledges that the following conditions of Resolution 41-1984 have not been adequately addressed by the developer. The developer shall fulfill these conditions with expediency in order that construction activities and/or conditions are not ahead of each other or in jeopardy of the full intent of these conditions.
 - B. 1. & 2. - regarding street improvements.
 - B. 13. - regarding easement improvements and maintenance access for sewer and drain lines.
 - C. 2. - regarding individual sewer pumps.
 - E. 3. - regarding drainage discharges.
 - E. 4. - regarding Shoreline Permit.
 - All other conditions whether within or outside the purview of public works improvements.

By signing this memorandum, the parties on behalf of themselves and that of their assign(s) hereinafter hereby acknowledge the limitations of receiving plans and specifications approval and obtaining a public works project permit

Leonard and Boudinot
INCORPORATED
PROFESSIONAL ENGINEERS and LAND SURVEYORS

August 22, 1985

JOHN E. LEONARD, JR., P.E. & L.S.
ROBERT C. BOUDINOT, JR., P.E.

Job No. 84253

LEGAL DESCRIPTION FOR: TRILLIUM CORPORATION

(Legal Description for the Plat of BRIZA)

That portion of Sections 12 and 13, Township 37 North, Range 2 East, W.M., being more particularly described as follows:

Commencing at the South Quarter corner of said Section 12; thence North $1^{\circ}32'55''$ East along the North-South center line of said Section 12 a distance of 233.30 feet to the TRUE POINT OF BEGINNING; thence North $57^{\circ}40'18''$ West, 47.68 feet; thence North $65^{\circ}46'57''$ West, 80.30 feet; thence South $84^{\circ}13'46''$ West, 60.81 feet; thence South $57^{\circ}06'21''$ West, 29.57 feet; thence South $46^{\circ}56'53''$ West 37.11 feet; thence South $61^{\circ}06'49''$ West, 39.28 feet; thence South $48^{\circ}33'45''$ West 40.11 feet; thence South $55^{\circ}40'36''$ West, 47.12 feet; thence South $35^{\circ}12'17''$ West, 29.03 feet; thence South $54^{\circ}16'25''$ West 48.27 feet; thence South $39^{\circ}39'28''$ West 33.98 feet; thence South $43^{\circ}48'04''$ West 50.51 feet; thence South $43^{\circ}19'02''$ West, 37.16 feet; thence South $52^{\circ}23'29''$ West, 34.90 feet; thence South $38^{\circ}06'39''$ West, 97.99 feet; thence North $78^{\circ}23'08''$ West, 44.70 feet; thence South $87^{\circ}36'57''$ West, 97.19 feet; thence South $56^{\circ}03'13''$ West, 125.00 feet; thence South $48^{\circ}16'44''$ West 133.22 feet; thence South $53^{\circ}55'29''$ West, 116.46 feet; thence South $73^{\circ}16'54''$ West, 97.70 feet; thence South $42^{\circ}32'12''$ West, 85.02 feet; thence South $58^{\circ}32'39''$ West, 59.97 feet; thence South $59^{\circ}45'15''$ West, 80.35 feet; thence South $12^{\circ}55'13''$ West, 29.08 feet; thence South $49^{\circ}46'26''$ West, 92.28 feet to the West line of Government Lot 2 in said Section 13; thence North $1^{\circ}50'21''$ East along said West line 581.98 feet to the Southwest corner of the Southeast Quarter of the Southwest Quarter of said Section 12; thence North $1^{\circ}35'46''$ East along the West line of said Southeast Quarter of the Southwest Quarter, 115.15 feet to the Southerly line of the Plat of Viewcrest as recorded in volume 8 of Plats at page 5, under Auditor's File No. 643936, records of Whatcom County; thence North $59^{\circ}29'05''$ East along said Southerly line, 197.74 feet; thence North $32^{\circ}22'05''$ East along said Southerly line, 89.88 feet; thence South $30^{\circ}30'55''$ East along said Southerly line 175.56 feet; thence North $32^{\circ}22'05''$ East along said Southerly line 393.22 feet; thence North $47^{\circ}45'05''$ East along said Southerly line 326.85 feet; thence North $59^{\circ}29'05''$ East along said Southerly line 565.51 feet; thence North $84^{\circ}08'05''$ East along said Southerly line, 623.13 feet; thence North $41^{\circ}11'45''$ East, along said Southerly line, 141.46 feet to the intersection with the Southerly right-of-way line of Chuckanut Drive; thence South $48^{\circ}48'15''$ East along said Southerly right-of-way line 920.93 feet to the intersection with the East line of the Southwest Quarter of the Southeast Quarter of said Section 12; thence South $1^{\circ}26'46''$ West along said East line 177.10 feet to a point 455.00 feet North of the Southeast corner of said subdivision; thence North 90° West, 450.00 feet; thence North $57^{\circ}28'38''$ West, 247.12 feet to the intersection with the East line of the Southwest Quarter of the Southwest Quarter of the Southeast Quarter of said Section 12; thence North $1^{\circ}29'51''$ East along said East line, 100.00 feet to the Northeast corner of said subdivision; thence North $87^{\circ}58'17''$ West along the North line of said subdivision, 661.45 feet to the Northwest corner of said Subdivision; thence South $1^{\circ}32'55''$ West along the West line of said Subdivision 430.15 feet to the TRUE POINT OF BEGINNING.

Containing 33.9 Acres.

Offices:

1809 Commercial Avenue, Suite E, Anacortes, WA 98221
612 Fairhaven Avenue, Burlington, WA 98233

(206) 293-4508
(206) 755-0431

Mailing address: P.O. Box 327, Burlington, WA 98233

Order of the following agenda items was rearranged to facilitate those present.

7. Shoreline Permit #172 Briza Subdivision. Trillium Corporation, applicant. Located on the northeast shore of Chuckanut Bay.

It was explained by staff member Vickie Matheson that the only improvements proposed within Shoreline jurisdiction was the establishment of drainage ditches which run into the marsh area. She also stated that the Parks Dept has been in negotiation to acquire the tidelands and some upland area and that the sale was nearly complete. This was the reason the permit had been delayed. Jean Gorton representing the Trillium Corporation explained that Trillium would now like to proceed with the permit.

Larry Williams, Chuckanut Village, spoke stating his concern about uplands access at high tide. He indicated that it would be desirable to allow access over Lots 25-27 in order to provide people with a legal way of getting across the lots at a 6 foot tide.

Jean Gorton responded that access is already provided via the road and drainage easement.

Aiver Heinrich spoke saying that he owned adjacent property and was concerned that running drainage into the marsh would flood his property. He suggested that the drainage be run out to the Bay underneath the railroad trestle.

Pete Mock, Chuckanut Village, echoed concerns regarding access at high tide.

Phil Martin, Chuckanut Village, expressed a desire to have a continued ability to launch small craft at the end of Fairhaven Street. It was explained that the design of the City-owned property was not presently under consideration. Mr. Martin also raised the issue of damage to the marsh from drainage generated by the subdivision.

Bill Servais, 1018 - 15th Street, raised the issue of the chemical balance of the marsh and potential harm to this balance caused by road runoff. He also suggested that run off be directed into the Bay.

Jean Gorton stated that the EIS prepared indicated no damage to the marsh from runoff.

Shoreline Committee members discussed public access. Ms. Bjornson stated that she felt it was appropriate to obtain public access in this area. Mr. Edelstein felt that perhaps some form of access could be provided at high tide without encroaching onto private property. It was agreed that the City should work on solving this problem as part of their park design.

Further discussion occurred regarding damage to the marsh from drainage. Further detailed information was needed. The matter was tabled until this information could be provided.

MINUTES OF MEETING
BELLINGHAM SHORELINE COMMITTEE
AUGUST 16, 1985

Shoreline Committee Present: Georg Leshefka
Louise Bjornson
Bill Canavan
Dave Edelstein (alternate)

Planning Staff Present: Vickie Matheson

1. Shoreline Permit #202: Bellingham Cold Storage lunchroom located at Squalicum Harbor. Bellingham Cold Storage, applicant.

Jerry Simmons representing Bellingham Cold Storage explained the need for a lunchroom for employees at the existing Cold Storage site.

Vickie Matheson explained that the proposal was consistent with the Shoreline Master Plan.

IT WAS MOVED BY GEORG LESHEFKA AND SECONDED BY LOUISE BJORNSON TO RECOMMEND THAT THE PERMIT BE APPROVED. THREE AYES.

2. Shoreline Permit #172: Briza Subdivision. Trillium Corporation, applicant. Located on the northeast shore of Chuckanut Bay.

Vickie Matheson explained that the Shoreline Committee had discussed shoreline access at their last meeting and intended to concentrate on drainage at this meeting.

Ted Gacek, Gary Sturdy and Jean Gorton, all representing the Trillium Corporation, explained the proposed method for handling storm water run-off. It was stated that the storm water will outlet into the marsh area in two places. A riprapped lined ditch or biofilter will be utilized to channel the water into the marsh. One biofilter is 40 feet long, the other is 195 feet long, both are 4 feet wide and 1 foot deep.

Charlene and Bill Martin, residents in the area, questioned the impact of the water on the marsh.

Larry Williams, resident in the area, questioned the volume of water to be channeled into the marsh.

A letter from Ivar and Mary Heinrich was submitted stating their concern about the water quality from the marsh and flooding impact on their property.

MINUTES OF MEETING

BELLINGHAM SHORELINE COMMITTEE

September 10, 1985

Shoreline Committee Present: Louise Bjornson
David Edelstein (alternate)
Bill Canavan

Planning Staff Present: Vickie Matheson

1. SHORELINE PERMIT #172 Briza Subdivision. Trillium Corporation, applicant. Located in northeast shore of Chuckanut Bay.

Ted Gacek and Gary Sturdy representing the Trillium Corporation presented a redesign of the storm water system. The new proposal lengthens the western drainage channel from 40 feet to 150 feet and widens it from 4 feet to 12 feet. Vickie Matheson stated she had spoken to both the Department of Game and Department of Fisheries. Both of these agencies approve of the new plan.

Jerry Burns stated he felt that using the marsh as a target for runoff will have a negative impact.

Aiver Heinrich stated concern about keeping water off his property.

Bill Servais cited the statement in the Environmental Impact Statement that no work on roads would be done during the rainy season.

Larry Williams suggested that netting be installed in the drainage channels to facilitate reseeding. He also suggested that one growing season occur after seeding before the channel is used.

Phil Martin asked about the existing ditch. Gary Sturdy responded that the ditch was only a temporary measure.

The Committee discussed the rationale for the eastern ditch to be only four feet wide and the need for a set back from the marsh area.

IT WAS MOVED BY DAVID EDELSTEIN AND SECONDED BY LOUISE BJORNSON TO RECOMMEND APPROVAL OF THE PERMIT WITH THE FOLLOWING CONDITIONS:

1. A 50 foot building and clearing set back for lots abutting the marsh be required.
2. The eastern drainage channel be increased from four feet in width to eight feet in width.
3. Comments in writing approving the drainage plan be received from the Department of Game and the Department of Fisheries.
4. The biofilters be completed one growing season prior use and that netting be used to facilitate growth vegetation.

The vote was 2 Ayes and one Nay with Conavan voting No. Mr. Canavan stated that he did not want to hold up the development but felt that it was impossible to know that all negative impacts to the marsh would be mitigated.
1088N

Vickie Matheson stated that she had visited the site with Jamie Hartley from the Department of Ecology. He had suggested that a 50 foot building setback be imposed for those lots which front directly on the marsh. She had also spoken to Ted Mueller from the Department of Game who stated that they would review more detailed drainage plans, if requested. The Department of Fisheries has not reviewed the plans.

The Shoreline Committee discussed the drainage proposals stating that they felt the 40 foot long channel was too short for the 1 foot width. They would like to see the applicants work with the Department of Game for a more detailed design before they made a recommendation.

IT WAS MOVED AND SECONDED THAT THE REQUEST BE TABLED UNTIL MORE DETAILED INFORMATION IS PROVIDED. THREE AYES.



CITY ATTORNEY, 210 Lottie St., Bellingham, Washington 98225
Telephone: (206) 676-6903

May 6, 1985

MEMO TO: Bill Hager, Planner III

INFO TO: Jean Gorton, Trillium Corp.
Sally Goddard, Whatcom Land Title
Byron Elmendorf, Director of Parks & Recreation
Joan Ogden, Whatcom County Auditor
Bruce Disend, City Attorney

FROM: Charles A. Shaw, Assistant City Attorney

SUBJECT: Short Plat Requirements, Conveyance of Parcel over 20 Acres

I. QUESTION PRESENTED:

The Trillium Corporation proposes to sell the City certain parcels of land and tidelands that, in the aggregate, amount to more than 20 acres. These lands are part of a large holding of the Trillium Corporation in the Chuckanut Bay area. Does the conveyance require a short plat?

II. CONCLUSION:

The City's subdivision ordinance contains exceptions which, when applied to this transaction, obviate the need for platting.

III. ANALYSIS:

Bellingham Municipal Code, Title 18, requires that when a portion of an existing parcel of land in one ownership is sold, the transaction must be covered by a short plat. However, Section 18.04.080B is an exception to the provisions of the title, and it states that a division of land creating tracts in excess of 20 acres will not be subject to the platting requirements. Since this transaction involves land in excess of 20 acres (see enclosure), it appears to fit under the exception.

A related question is that, since the parcels involved are not adjacent to each other, does this amount to the creation of several new tracts, all of which are less than 20 acres? I do not believe this to be the case.

The intention of the transaction is to create a single public recreation facility. Thus, the transaction comes under Section 18.08.300, a definition of "open space", which because of the exceptions

for access routes, parking, and so on, takes into account the fact that open space parcels are frequently not contiguous to each other, but even so they will be treated as if they were. This view is especially applicable to the proposed transaction, since all of the parcels involved will be aggregated once park operations commence.

Respectfully submitted,



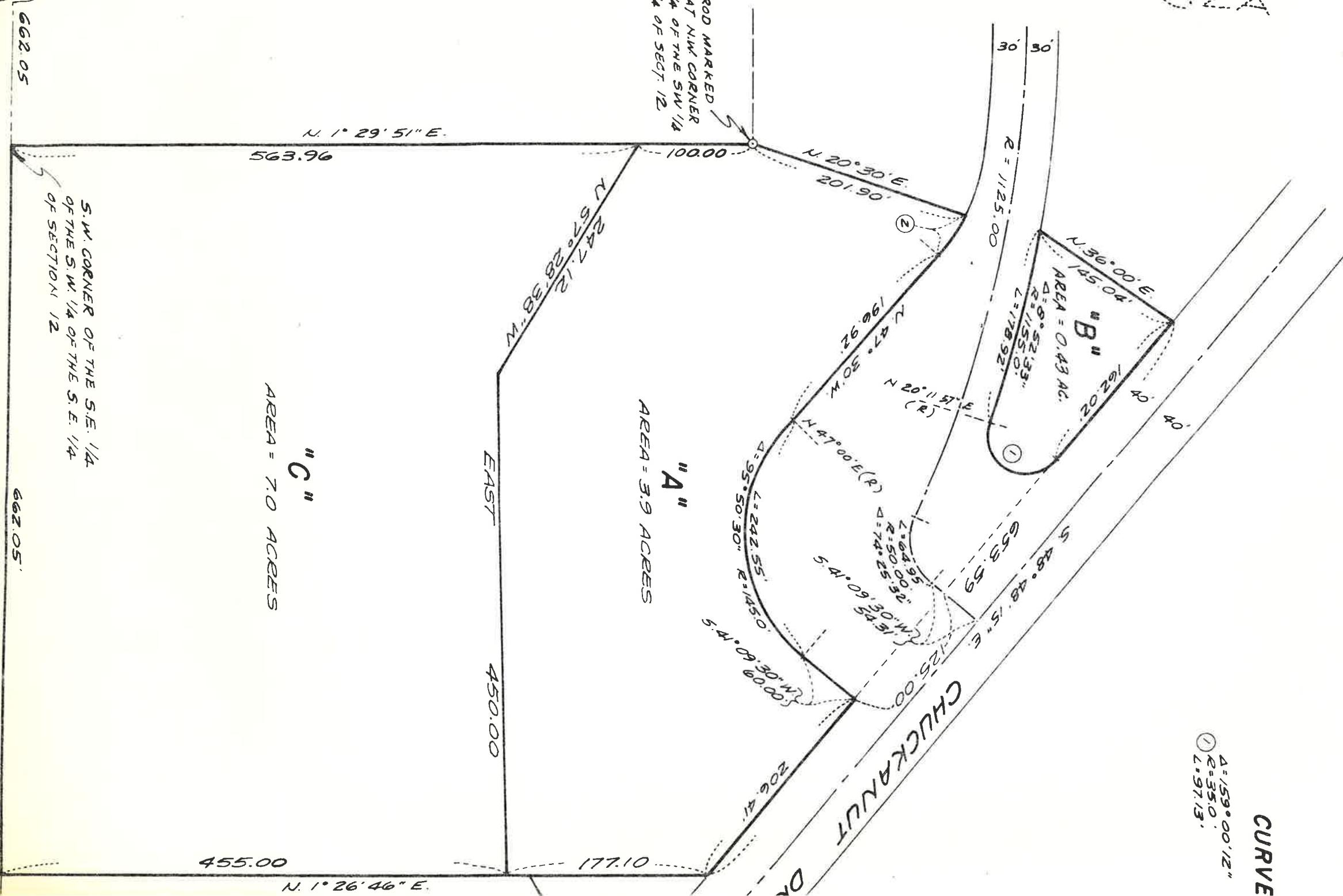
Charles A. Shaw
Assistant City Attorney

sg

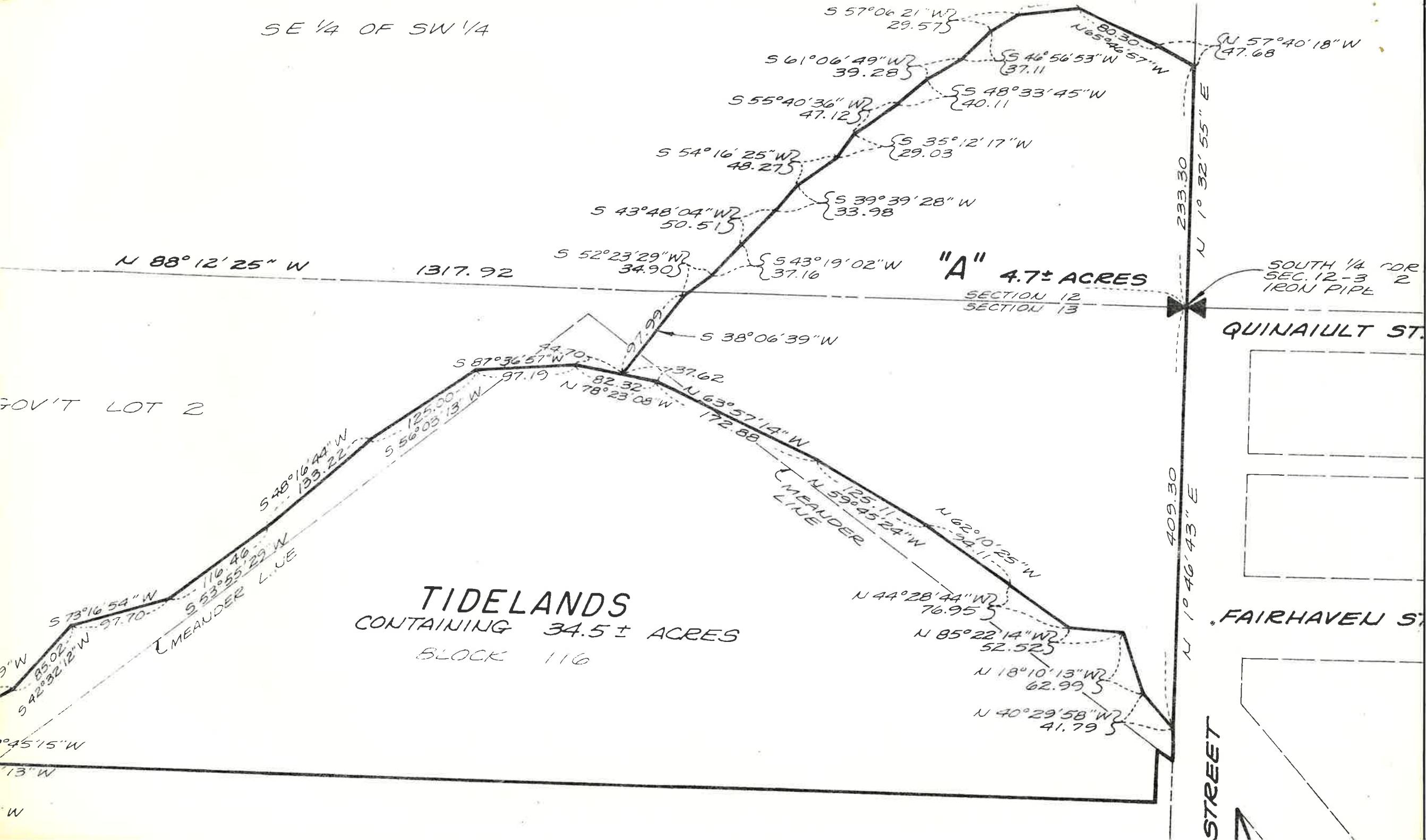
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SE 1/4 OF SW 1/4





The Trillium Corporation
4183 Meridian Street
Bellingham, Wa. 98226
(206) 676-9400

April 10, 1985

Mr. Jack M. Garner, P.E.
Director of Public Works
210 Lottie Street
Bellingham, WA 98225

RE: BRIZA SUBDIVISION L.I.D.

Dear Jack:

We have reviewed your letter of March 27, 1985, and are pleased that the Park Department and Public Works Department recognize a public benefit in the contribution of additional land and construction of the Chuckanut sewer main by The Trillium Corporation.

We would like to proceed with the project during 1985 if it is approved by the City Council. We will provide the City with the completed engineering and bid documents, and do whatever else is needed, to expedite the construction schedule. We would also waive the 30 day LID protest period.

We recognize and accept the City's requirement for financial security to be provided by the developer. There are, however, two points in the Policy Statement for Developer LID's (LEG 6.9.1) which I would hope to see modified. Section A. requires security in an amount equal to two years of LID payments (both principal and interest). In case of default (the reason for the security provision), only the interest payments for the subsequent two years would be necessary on LID term bonds. Securing the interest only does provide adequate assurance to the bond holders for the bonds to be marketed at regular LID bond rates. Covering the principal as well adds substantially to the cost of the Letter of Credit without providing additional protection to the City or advantage to the bond holders.

The second point (Section C.) for your consideration is the requirement that security be provided before the effective date of the ordinance creating the LID. A more customary procedure is for the developer to sign an agreement to provide the security and to indemnify the City against any preliminary costs. The actual Letter of Credit securing the bonds is then provided prior to the City's awarding of construction contract.

Mr. Jack M. Garner
April 10, 1985
Page Two

Thank you for your assistance with this project. We are especially
please to participate in providing an improved park and public access
to this unique area.

Sincerely,



Jean Gorton
Vice President

JG:ds

cc: Tim Douglas
Byron Elmendorf
Bill Hager



DEPARTMENT OF PUBLIC WORKS, 210 LOTTIE ST., BELLINGHAM, WASHINGTON 98225
Telephone (206) 676-6961

March 27, 1985

Trillium Corporation
4183 Meridian Street
Bellingham WA 98226

Attention: Jean Gorton, Vice President
Project Administration

CITY OF BELLINGHAM
MAR 28 1985
PLANNING & ECONOMIC
DEVELOPMENT

Dear Jean:

Byron and I have reviewed your latest proposal for LID financing of the public improvements for the Briza subdivision with Mayor Douglas. We are prepared to recommend approval of a developer LID for the internal improvements and the sewer system along Chuckanut Drive north to the vicinity of Willow Road. This recommendation is contingent upon the dedication of an additional 4-1/2 acres of property for Park purposes. We believe your assumption of the cost of the Chuckanut sewer line and the dedication of Park property combine to make this project a public benefit.

We will be recommending that the security provisions outlined in the City policy be required. This will amount to two years' principal and interest during the life of the LID.

Upon your approval, we will proceed with our report to the Council. Assuming favorable Council reaction to the proposal, we will begin expeditious work on the project. We will commit to having all construction activity completed by the end of 1986.

Sincerely,

A handwritten signature in cursive ink that reads "Jack Garner".
John M. Garner, P.E.
Director of Public Works

JMG:shh
G032785c

cc: Tim Douglas
Byron Elmendorf
Tom Rosenberg
Bill Hager



PLANNING & ECONOMIC DEVELOPMENT DEPARTMENT

Tim Douglas, Mayor

Bobbie T. Hinde, Director

(206) 676-6982

City Hall - 210 Lottie / Bellingham, WA 98225

March 7, 1985

M E M O R A N D U M

TO: Jack Garner, Public Works Director
FROM: William Hager, Planner II
RE: Briza Subdivision L.I.D.

A handwritten signature in black ink that reads "William Hager".

You have asked my opinion on whether or not the City or the general public would derive any benefits from the formation of a L.I.D. to install the required infrastructure for the Briza preliminary plat.

Trillium's letter requesting the L.I.D. mentions the donation of 1/2 the value of the land to the City for park and open space as one public benefit. While staff certainly appreciates Trillium's generous and mutually desirable donation, let me state quite emphatically that both Byron and myself made it quite clear to the Trillium Corporation that the donation and purchase by the State and City of its subject property should be considered by Trillium on its own merits. We wanted to know early on whether later formation of a L.I.D. was going to be a condition of the acquisition. I believe this is reflected in the fact that Trillium did not include L.I.D. formation as a condition of acquisition in its letter to Council, and the City has now obtained options to the subject property.

Whether or not the actual improvements benefit the public is something that perhaps your department can better address than I. However, it seems to me that the sewer from Willow to the site may have some public benefit. My understanding that the pump internal to Briza is sized only for the subdivision. However, if of larger capacity, that too may be considered a benefit.

In speaking with Byron Elmendorf, there is little benefit that the acquired City open space will derive from the utilities. Although the land was appraised higher in the acquisition process due to the closeness of the utilities, sewerage would still have to be pumped in order to utilize the system. There is no street access to the site provided by the plat.

I hope this is of assistance.

WH/jo



RECEIVED

FEB 27 1985

BELLINGHAM
CITY COUNCIL

The Trillium Corporation
4153 Meridian Street
Bellingham, Wa. 98226
(206) 676-9400

February 25, 1985

Ms. Anne Rose, President
Bellingham City Council
City Hall
Bellingham, WA 98225

Dear President Rose:

Attached is a copy of the Local Improvement District Request submitted to the Department of Public Works in June, 1984. At that time the request was set aside pending formulation of City policy guidelines on "Developer LID's."

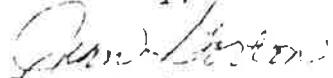
In the interim, The Trillium Corporation has proceeded with final engineering and cost estimates. Our engineers, Leonard and Boudinot, have coordinated with the City Engineer's staff to insure that City standards are met in the design stage.

Our request to the City Council is for formation of a Local Improvement District for the Briza Subdivision for the construction of the public streets, storm sewers, water distribution lines, sanitary sewer lines and pump station, and other public improvements required by the Dept. of Public Works. The total estimated cost is \$850,000, including extension of the sewer main along Chuckanut to the nearest City connection point.

Trillium is aware of the City policy on providing independent security for the LID payments, and accepts that responsibility. We feel that public benefits from the project include the extension of the sewer main and a pump station, which can serve an expanded area currently in need of sewer service. Another general benefit to the community resulting from the Briza subdivision is the donation of land to the City for use as a park and natural reserve.

We would appreciate meeting with the Council Public Works Committee as soon as possible to discuss the proposal.

Sincerely,


Jean Gorton
Vice President

JG:ds



PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT

William T. Geyer, Director
(206) 676-6982

City Hall • 210 Lottie Street • Bellingham, Washington 98225

M E M O R A N D U M

TO: Dave Wolf
 Rob Neale
 Marilyn Vogel
 Marilynn Sams

FROM: Vickie Matheson ^{VA}

DATE: November 10, 1986

Please find attached copies of the Final Plat for the Briza Subdivision. Also attached are the construction requirements for single family homes. The restrictive covenants for the property and the resolution both allow the City to enforce these requirements through the building permit process. Please look them over carefully. The provision requiring sprinkling may require Fire Marshal review in some instances.

VM/dd

BRIZA PLAT CONDITIONS

- Building Div. 1. All footing excavations should be inspected by a geotechnical engineer prior to pouring concrete to determine if adequate bearing has been achieved.
- Building Div. 2. Any cut and fill slopes exceeding 2 (horizontal):1 (vertical) shall be evaluated for stability by a geotechnical engineer.
- Fire Dept. 3. Neighbors should be notified when blasting is to occur, and blasting could be restricted to daylight hours.
- Fire Dept. 4. Individual fire sprinkler systems may be required by the Fire Marshal.
- Public Works (Bldg. Div. may enforce on site) 5. Each construction site shall include provisions to control erosion such as temporary settling basins, straw bales, seeding and mulching steep slopes and shielding excavations by material such as visquine.

Attorney at Law

ROLF BECKHUSEN

2014 Iron Street • Bellingham, Washington 98225 • (206) 671-6900

February 7, 1989

Ms. Marilyn Vogel
DEPARTMENT OF PLANNING
& ECONOMIC DEVELOPMENT
210 Lottie Street
Bellingham, WA 98225

Re: 311, 313, 315 Sea Pines Road
a/k/a Lots 22, 23, and 24
Plat of Briza

Dear Marilyn:

I am not entirely certain whose job it is to place notices in specific address files; however, I am writing you in hopes that you will either do so or give this letter to whoever is responsible for doing the same. The purpose in writing is to request that I be notified if there are any applications for building permits or for permits relating to development of the properties listed above. My specific concern is that any potential development of those properties may materially effect the existing view of adjacent property owners residing along Viewcrest Road.

I would like, specifically, to have the opportunity to review the elevation of any planned improvements to the subject parcels. If there is a significant impact on the view of adjacent property owners, we would probably request that the Planning Director conduct a discretionary review of the proposed elevation as he empowered to do under the zoning ordinance.

Thank you for your assistance in this matter. Please call if you have any questions. I have enclosed three copies of this letter, one for each address file, for your convenience.

Very truly yours,

Rolf Beckhusen

Encl
yw

TRILLIUM
Corporation

1307 CORNWALL, SUITE 200

December 20, 1988

BELLINGHAM, WA 98225

PHONE: 206/676-9400

TELECOPIER: 206/676-7736

Mr. Robert S. Davidson
328 Viewcrest Road
Bellingham, WA 98225

Dear Mr. Davidson:

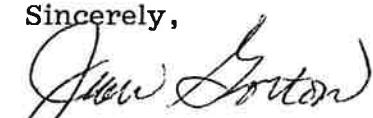
Enclosed for your information is a copy of the "Declaration of Covenants, Conditions and Restrictions of the Plat of BRIZA." Section 4.3 contains the height restrictions applicable to homes built on Lots 22, 23 and 24.

The lots in question are owned by Beatrice Meyers. She is, I understand, represented by Ray Hoffman of Foothills Realty in offering the lots for sale. You should contact her for information regarding the driveway construction. If you are able to be civil, I'm sure she would talk to you regarding the likely elevation of the building sites.

Your comment that the access road is in violation of the EIS recommendations is of concern to me. I am unable to find any such reference in the Draft EIS and its Appendices or in the Final EIS. Perhaps you would provide a citation so I can verify if your claim is correct.

One further request, Mr. Davidson. Would you please refrain from misquoting me.

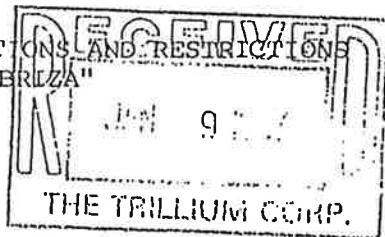
Sincerely,



Jean Gorton
Vice President
Planning

JG/cw

cc: Bellingham Planning Department
Mayor Douglas
Foothills Realty
Mrs. Delores L. Syre

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
OF THE PLAT OF "BRIZA"A. RECITALS.

This Declaration is made with reference to the following facts and conditions:

1. The undersigned Declarant is the owner in fee simple of the following described real estate property in Whatcom County, Washington:

THE PLAT OF BRIZA, CITY OF BELLINGHAM, COUNTY OF WHATCOM,
STATE OF WASHINGTON.

2. Declarant intends to ensure that construction of single-family homes within this subdivision is in conformance with the requirements and restrictions of the June 18, 1984, City of Bellingham Resolution accepting the Preliminary Plat hereof; and

3. Declarant desires to provide the means to enforce the rights, reservations, easements, liens and charges provided in this Declaration, and for necessary maintenance and to provide for a community organization consisting of a non-profit community Association that includes as members those who purchase any lot, tract or parcel within this subdivision.

B. DECLARATION.

The Declarant hereby certifies and declares that the following conditions, covenants and restrictions shall endure and be binding upon the respective owners of each lot, and further declares that all of the property within the Plat of Chuckanut Bay described herein is held, and shall be held, conveyed, encumbered, leased, rented, used, occupied and improved subject to the following limitations, restrictions, conditions and covenants for the purpose of enhancing and protecting the value, desirability and attractiveness of the subdivision and every part thereof. All of the following limitations, restrictions, conditions and covenants shall run with the land and shall be binding on all parties having or acquiring any right, title or interest in the subdivision or any part thereof.

1. LAND CLASSIFICATION AND DEFINITIONS.

The following words and classifications of land shall have the following meanings under this agreement.

1.1 Lot: Any parcel of real property within the boundaries of the subdivision identified by Arabic numerals and designated for the location and construction of a single-family residence.

1.2 Owner: Any person, firm or corporation holding either fee title or a vendee's interest under a real estate contract as shown by the records of Whatcom County, Washington, to the exclusion of any lessor's interest.

1.3 Person: Any individual, firm, corporation, partnership, association, unincorporated association or organization, or political subdivision thereof.

1.4 Declarant: Declarant is The Trillium Corporation, its successors and any assigns engaged in land development and/or wholesale land sale activities in Whatcom County, Washington, or some portion thereof.

1.5 Common Properties: Real property owned by the Association or dedicated on the face of the Plat map for common use and enjoyment of the lot owners and members of the Association, including all roads, paths and walkways.

1.6 Annual Charge: The sum of (1) the yearly assessment against the assessable property; (2) the interest on any delinquent charges imposed; (3) the cost of any maintenance or repair work required to be performed by the owner but not so performed and performed instead by the Association; and (4) the cost of enforcing the lien imposed hereunder upon such assessable property.

1.7 Assessable Property: Each individual lot, together with any easement or common area which may be assessed for taxes by the City of Bellingham or its successor in interest.

1.8 Improvements: Improvements shall mean and include, without limitation, buildings, out-buildings, roads, driveways, parking areas, fencing, retaining walls, swimming pools, screening, walls, ornamentation, signs, stairs, decks, hedges, wind breaks, plantings, planted trees, shrubs, poles, lighting, hot tubs and all other structures or landscaping.

1.9 Resident: (1) each person lawfully residing on or in any part of the assessable property; and (2) members of the immediate family of each such person actually living in the same household with such person.

1.10 Board: The Board of Trustees, Board of Directors, or other governing body of the Association.

2. RESERVATIONS

2.1 Reservation of Easements: Easements for drainage, sewers, water pipes and utilities, facilities and service (including but not limited to water supply, electricity, gas, telephone, television) are hereby reserved over, under, upon, in and through all roadways and walkways, and over, under, upon and through certain portions of lots, tracts or parcels as shown on the Final Plat map of said Plat in which to install, lay, construct, repair, renew, operate, maintain and inspect underground pipes, sewers, conduits, cables, wires and all necessary facilities and equipment for the purpose of serving said Plat, together with the right to enter upon said easement areas, lots, tracts, parcels, roads and walkways for or pertaining to the aforesaid. This reservation of easement is for the benefit of Declarant and its successors in interest, the City of Bellingham, Puget Power, Cascade Gas, Northwest Bell, Nationwide Cablevision.

2.2 Reservation of Alley Serving Lots 5 through 21: The interior road or

alley serving Lots 5 through 21 of this Plat and accessing the main access road of this Plat east of Lot 5 shall be conveyed by the Declarant in trust to the Community Association and held by the Community Association for the benefit of Lots 5 through 21 as set forth below. The conveyance is to be made when the alley has been accepted as completed by the City of Bellingham Engineering Department and after the Association has come into existence. Upon conveyance of the alley to the Community Association, each of Lots 5 through 21 shall share equally in the cost of maintenance and repair of this alley. The Community Association hereinafter established shall be responsible for collecting assessments from these lots for this purpose.

2.3 Reservation of Alley for Serving Lots 1 through 4. The interior road or alley serving Lots 1 through 4 of this Plat and accessing the main access road of this Plat east of Lot 5 and between Lots 1 and 2 shall be conveyed by the Declarant in trust to the Community Association and held by the Community Association for the benefit of Lots 1 through 4 as set forth below. The conveyance is to be made when the alley has been accepted as completed by the City of Bellingham Engineering Department and after the Association has come into existence. Upon conveyance of the alley to the Community Association, each of lots 1 through 4 shall share equally in the cost of maintenance and repair of this alley. Further, Lots 1 through 4 shall jointly participate as one lot in the cost of maintenance and repair of the primary alley (Sea Crest Lane) as referenced in Section 2.2. above. The Community Association hereinafter established shall be responsible for collecting assessments from these lots for this purpose.

2.4 Reservation of Pedestrian Walkways. All pedestrian walkways shown on said Plat shall be improved to facilitate pedestrian access. Declarant agrees to convey these pedestrian walkways to the Association after improvements are completed and the Association comes into existence. Upon conveyance of such internal pedestrian easements leading to open space areas, the Community Association shall thereafter be responsible for the maintenance and upkeep of such internal pedestrian walkways.

2.5 Reservation of Common Open Space. All areas identified on the face of this Plat as common open space are hereby conveyed to the Community Association, and the Community Association shall be responsible for the maintenance and upkeep of the common open space. The Community Association shall assess each lot an equal portion for any maintenance and upkeep associated with the common open space area or areas, including, but not limited to, costs associated with brush control, trash removal and weed control.

2.6 Reservation of Drainage Easements and the Right to Drain. The Declarant hereby reserves the right to drain all roadways, walkways, easement ways and areas over and across any lot or lots, blocks, tracts and parcels where water might take a natural course after the grading thereof. The two drainage easements designated within this Plat and acting as biofilters between the storm drain outfalls and the marsh shall be maintained as meandering grass lined swales. These easements are conveyed to the Community Association, and the Community Association shall be responsible for the maintenance of the swales, including regular cleaning to remove sediments, and the replanting of grass and the placement of new rock as necessary to ensure effective operation.

2.7 Sales Office. The Declarant reserves the right to maintain a sales office on a lot to be designated by the Declarant within this Plat for the purpose of selling and re-selling lots within this Plat; provided, that the sales activity shall be limited to the sale or resale of lots within this Plat. Declarant reserves the right to place and maintain "for sale" signs on any lot within the said Plat as may be prepared and erected by the Declarant.

3. GENERAL USE RESTRICTIONS AND REQUIREMENTS.

3.1 All lots within the subdivision shall be used exclusively for permanent residential purposes.

3.2 All boats, utility trailers, trucks of more than one-ton capacity, campers, travel trailers, motorhomes and similar items or vehicles, shall not be operated, maintained or kept upon any lot or parking area, but shall at all times be enclosed in a garage or otherwise hidden from view; provided, that out-of-county guests of an owner may, with the owner's permission, park a recreational vehicle or travel trailer on the owner's lot and completely off the street for up to four (4) weeks.

3.3 No firearms, fireworks or explosives shall be discharged within the boundaries of the subdivision.

3.4 No animals, livestock or poultry of any kind shall be raised, bred or kept on any lot, except dogs, cats or other house-hold pets may be kept, provided they are not kept, bred or maintained for commercial purposes.

3.5 No signs or billboards shall be placed upon any lot except that one identification sign bearing the owner's name may be placed upon the owner's lot. Nevertheless, the Declarant may display post signs, billboards and other advertising materials in or about any unsold lots until all lots in the subdivision have been sold by Declarant, and Declarant may subsequently advertise the property for sale.

3.6 No lot owner shall deposit or permit the accumulation of any trash, ashes, garbage or other refuse or debris on or about the subdivision, but shall deposit same in covered trash receptacles.

3.7 No outside incinerators or other equipment for the disposal of rubbish, trash, garbage or other waste material shall be used within the subdivision, with the exception that covered compost heaps may be maintained according to conditions of 3.8.

3.8 Each lot owner shall keep his lot neat and orderly in appearance, and shall not cause or permit any noxious, odorous or tangible objects which are unsightly in appearance to exist on the premises.

3.9 All automobiles and all other permitted vehicles, if kept or parked on any lot, shall be in good order and working condition. Partially wrecked vehicles, discarded vehicles or vehicles which are in a state of disrepair shall not be kept on any lot, unless enclosed in a garage or otherwise completely hidden from view.

3.10 No television or radio antennas of any kind which extend more than ten (10) feet above the roofline of the residence shall be permitted on any lot or structure nor shall any satellite or "dish" antennas be permitted on any lot or structure.

3.11 Further subdivision of lots is hereby prohibited except (1) where lots of equivalent or larger size are created; or (2) if area is exchanged between adjoining lots without the creation of an additional lot.

3.12 Boundary line fences may be erected and maintained from the rear corner line of the main structure and extending toward the rear of the lot. No boundary line fences extending forward and toward the street from the rear corner line of the main structure shall be permitted except those composed of living materials only, such as hedges, shrubs or trees. Boundary line fences composed of "cyclone" type fencing materials, wire mesh or wire of any kind shall be prohibited. For lots accessed by alleys, front yard is defined as that part of the yard between Sea Crest Road and the nearest plane of the main structure.

3.13 In order that existing views from individual lots may be protected to the extent practicable, no trees or shrubs may be planted which are capable of attaining a height of thirty (30) feet or more upon maturity, unless planted to replace a similar tree or shrub which existed at the time of original conveyance of the lot on which the tree is placed.

4. CONSTRUCTION

4.1 Time for Completion. Construction of all buildings shall be prosecuted diligently from commencement of work until the exterior is completed and painted and all sanitation and health requirements have been fulfilled. The maximum time limit for the completion of the building shall be twelve (12) months from the date construction commences, which is defined as the date building materials are first delivered to the property. Construction shall not be deemed completed until the lawn (bark or ground cover) and shrubs have been properly seeded and the lot has been cleaned up, rendered free of debris and placed in reasonable condition.

4.2 Construction Requirements. All single-family home construction within this Plat is subject to the following provisions and restrictions, to be enforced by appropriate City agencies:

(a) All footing excavations must be inspected by a geotechnical engineer prior to pouring concrete to determine if adequate bearing has been achieved.

(b) Any cut and fill slopes exceeding 2 (horizontal):1 (vertical) must be evaluated for stability by a geotechnical engineer.

(c) Neighbors must be notified when blasting is to occur, and blasting shall be restricted to daylight hours.

(d) Individual fire sprinkler systems may be required by the fire marshall.

(e) Provisions shall be made at each construction site to control erosion, such as temporary settling basins, straw bales, seeding, mulching steep slopes and shielding excavations through the use of material such as visquine.

(f) Lots 35 through 41 shall have a 50 foot building set back from the rear property line adjacent to the marsh. This area shall be maintained with vegetative materials and no filling or grading shall occur.

4.3 Height Restrictions. Height of structures erected on lots shall be restricted as follows or pursuant to the terms of any applicable City ordinance provision in effect at the time of application for a building permit, whichever is more stringent.

(a) No structure shall exceed thirty five (35) feet under height definition #1 or twenty (20) feet under height definition #2.

Definition #1: The verticle distance from the average finished grade to the average height of the highest gable of a pitch or hip roof;

Definition #2: The verticle distance measured from the highest point on the building site to the average elevation of the highest gable of a pitch or hip roof.

5. DESIGN REVIEW COMMITTEE.

5.1 General. Design review and control shall be accomplished by a Design Review Committee, which shall be composed of one owner's representative, one architect, one engineer, and two lot owners, and/or such person as they or the Declaration shall designate in writing. Fees for participation by the designated architect and engineer shall be paid by the lot owners submitting plans for review. No fees shall be charged by the Declarant or other lot owners. No building shall be erected, placed or altered on any lot until the construction plans, specifications and plans showing the location of the structure have been approved by the Committee as to the quality of materials, harmony of external design with existing structures, and location with respect to topography and finished grade elevation.

5.2 Approval/Disapproval. The Committee shall approve or disapprove plans, specifications, and details, including specified color finish, within fifteen (15) days following receipt. Plans, specifications and details which are not approved or disapproved within fifteen (15) days shall be deemed approved as submitted. Two (2) sets of plans, specifications, and details, including exterior color finish must be submitted. One (1) such set shall be returned to the person submitting them with the approval or disapproval endorsed on them. The other copy shall be retained by the Committee for its permanent files.

The Committee shall have the right to disapprove any plans, specifications or details in the event the same are not in accordance with all the provisions of this Declaration, if the design or color scheme of the proposed building or other structure is not in harmony with the general surroundings of such lots

or with the adjacent buildings or structures, if the plans and specifications are incomplete, or in the event the Committee decides that the plans, specifications, details or any part of them are contrary to the interest, welfare or rights of any owner or owners. The decisions of the Committee shall be final.

5.3 Conditional Approval. Any approval by the Committee may be conditioned upon compliance by the applicant with any reasonable condition which it deems appropriate, including, but not limited to, the posting of bonds or other acceptable security to secure performance by the applicant in accordance with the plans and specifications being approved.

5.4 No Liability. Neither the Committee or any person who succeeds it shall be liable to any party for any action or for any failure to act under or pursuant to the provisions of this Declaration, provided, that the Committee or its successor proceeds in good faith and without malice.

5.5 Expiration. Neither the Committee nor any members appointed to it shall have any responsibility with regard to these covenants after five (5) years from the date hereof or when Declarant no longer owns any of the lots in the subdivision, whichever occurs later. If a Community Association composed of the owners of not less than sixty percent (60%) of the lots is then or thereafter in existence, it may appoint, in accordance with its By-Laws, successors to the members of the Committee, who shall thereafter exercise its powers. The By-Laws may provide for resolutions of disputes through arbitration.

6. COMMUNITY ASSOCIATION.

The Declarant shall form a community organization to include as members all purchasers of any lot within this Plat. This organization shall be a non-profit corporation under Title 24 of the Revised Code of Washington, and shall be known as "Briza Community Association".

6.1 Purpose. Among the objectives and purposes of the Community Association shall be the furtherance and promotion of the common welfare of the purchasers of any lot, tract or parcel; the regulation, use, care, construction, operation, repair and maintenance and preservation of walkways, common areas and easements in this plat for which there is a private maintenance obligation to be shared in common by Association members according to the terms hereof; and the regulation, maintenance and repair of facilities thereon and such other facilities, equipment, activities, objects and purposes pertaining to the welfare, enjoyment, social well-being and protection and benefit of the members and their property in this plat, including but not limited to the operation and maintenance of and use of property held or controlled by the Community Association; payment of taxes on common areas and improvements; the furnishing of protection, drainage, and the like for the common good.

6.2 Creation and Transfer of Control. The Community Association shall be organized at the instance of the Declarant, and each purchaser of a lot shall be a member in the Community Association. The Declarant shall designate and appoint a Board of Trustees of the Community Association until such time as the Declarant has sold one hundred percent (100%) of the lots in this plat.

When one hundred percent (100%) of the lots in this plat have been sold, the control of the Community Association shall be turned over to the members, and the members may elect from its number at large as provided in the Articles of Incorporation and By-Laws the Board of Trustees. The Declarant, at its option, may at any time sooner turn over control of the Community Association.

6.3 Conveyances. The Declarant shall transfer and convey by deed all common areas, alleys, paths and walkways to the Community Association subject to the reservations impressed upon these properties by this Declaration. This conveyance shall be made after the Association has been created and improvements have been completed. At such time as the Declarant conveys the common open space, drainage systems, alleys, paths and walkways to the Community Association, the Community Association shall thereafter be responsible for the maintenance and upkeep of the alleys, drainage systems, paths, walkways and other common areas. In like manner, the Community Association shall be responsible for maintaining all of the storm drainage system within the Plat.

6.4 Assessments and Liens.

(a) **Authority.** The Community Association shall be empowered to establish and collect dues and assessments upon lots in this plat for the common benefit of such lots.

(b) **Objects.** The objects for which dues and assessments may be made and collected include utilities, roadways, drainage, property protection, landscaping, insurance, improvements, payment of taxes upon common property, the holding of ownership or a lease-hold interest therein or for any other common purposes, all as determined pursuant to the Articles and By-Laws of the Community Association.

(c) **Personal Obligation and Lien Foreclosure.** Such assessments shall constitute a personal obligation of any lot owner of record on the due date thereof, and shall also constitute a lien on the lot assessed. Such lien may be foreclosed by the Community Association in the same form and manner of procedure as the foreclosure of real property mortgage liens under the laws of the State of Washington.

(d) **Amounts Included.** Each owner and each party hereinafter owning or claiming an interest in one or more lots agrees that in the event of such a foreclosure action, the owner or party will pay the Association's expenses of title examination and insurance, the cost of attorney's fees incurred by the Community Association, and court costs. Interest at twelve percent (12%) per annum shall be included along with the amount of delinquent assessment in the judgment of foreclosure of such lien.

(e) **Manner of Assessment.** Assessments shall be assessed and collected on a fair and uniform basis as among lots, tracts, or parcels subject thereto, by the By-Laws of the Community Association between improved lots and unimproved lots.

(f) **Other Liens and Foreclosure Actions.** The method and manner provided for foreclosure of liens in this paragraph shall pertain to all liens referred to in these covenants. First mortgage liens placed upon any of said

lots for the purpose of constructing a residence or other liens provided for by the laws of the State of Washington, shall be, from the date of recordation of such, superior to any and all charges, assessments and liens imposed pursuant to this Declaration.

6.5 Establishment and Assessment of Charges. For the purpose of providing funds for uses specified herein, the Board shall for each year, commencing with the calendar year 1987, fix and assess a yearly assessment against the assessable property. The assessment shall be equal to a certain number of dollars and cents per individual lot recorded on the final plat, except that any unsold lot in the Declarant's initial inventory of lots shall not be assessed the annual assessment for a period of four (4) calendar years beginning January 1, 1987, or until the individual lot is sold.

6.6 Annual Statement. As soon as shall be practicable in each year, the Association shall send a written statement to each owner providing the number of dollars and cents assessed by the Board as the yearly assessment for the year in question, stated in terms of the total sum due and owing as the annual charge. The Association may, however, in its sole discretion determine to bill the annual charge in monthly installments, with or without a service charge as the Association may determine.

6.7 Penalty on Delinquent Assessment. If an owner shall fail to pay any installment of the annual charge within thirty (30) days from the date of issuance of the statement therefor, the same shall be deemed delinquent and will bear a penalty to be determined by the Community Association.

6.8 Delinquency for More than Ninety (90) Days. If the owner of any assessable lot shall fail to pay the annual charge or any installment therefor within ninety (90) days following the date of issuance of the statement therefor, the Association shall have the right to sue such owner for a personal judgment and, in addition, shall have the right to enforce the lien, hereinafter imposed. The amount due by such owner shall include the unpaid annual charge or installment thereof as well as the cost of such proceedings, including reasonable attorneys' fees, and the aforesaid penalty.

6.9 Rules and Procedures for Billing and Collecting Assessments. The Board shall have power and authority to adopt rules and procedures respecting the billing and collection of the annual charges, which shall be binding on all the owners.

6.10 Increase in Assessments. The amount of the assessment against each lot shall be initially determined and may thereafter be increased or decreased for any period of one (1) year or more, by the affirmative vote of at least fifty one percent (51%) of the voting members of the Association, represented in person or by proxy and entitled to vote, at a meeting, annual or special, called for such purpose.

6.11 Application of Assessment. The Association shall apply all funds received by it pursuant to these restrictions in the order stated:

(a) Administrative costs and expenses incurred by the Association in the exercise of its powers, authority and duties described in these Articles;

(b) The promotion of the recreation, health, safety, enjoyment and welfare of the users of the common property, and the enhancement of the values of the property by means of construction, repair, maintenance, operation and administration of the common property, including, but not limited to, the payment of taxes and insurance premiums on the common property.

(c) The service, repair, maintainance or replacement of any and all improvements, but not limited to fences, roads, pathways, drainage and lighting belonging to the Association.

6.12 Authority to Maintain Surplus. The Association shall not be obligated to spend in any particular time period all the sums collected or received by it in such time period or any other time period. The Association may carry forward, as surplus, any balances remaining. The Association shall not be obligated to apply any such surpluses to the reduction of the amount of the annual charge in any year.

7. PROTECTION OF MORTGAGE OR DEED OF TRUST HOLDER.

No violation or breach of any restriction, covenants or condition contained in this Declaration or any supplemental Declaration, and not action to enforce the same shall defeat, render invalid or impair the lien of any mortgage or deed of trust taken in good faith and for value of the title or interest of the holder thereof or the title acquired by any purchaser upon foreclosure of any such mortgage or deed of trust. Any such purchaser shall, however, take subject of this Declaration and any supplemental Declaration, except only that violations or breaches which occurred prior to such foreclosure shall not be deemed breaches or violations hereof.

8. ENFORCEMENT

All disputes concerning compliance with use standards or concerning the terms of this Declaration may be decided by arbitration. Once a party appoints an arbitrator, he or she shall be deemed to have irrevocably submitted to arbitration and to have irrevocably agreed to be bound by the decision reached by the arbitrationpanel. The party seeking enforcement or interpretation of this Declaration shall appoint one (1) arbitrator. The other party shall appoint a second arbitrator and the two so selected shall appoint a third. In the event the two arbitrators initially appointed are unable to select a third arbitrator within (3) weeks following their appointment, such arbitrator shall be appointed by the presiding Judge of the Whatcom County Superior Court. All arbitrators appointed shall be attorneys engaged in the private practice of law. The arbitrators so appointed shall take such testimony on the question before them as they shall deem appropriate and their decision shall be binding upon all parties and on the Association. The arbitration shall be accomplished in accordance with the applicable rules of the American Arbitration Association. All decisions of the panel shall be by majority vote. The cost and expenses of arbitration shall be borne equally by the parties.

In the event that either party refuses to submit to arbitration, the Association, the Declarant and each lot purchaser shall have the right to enforce, by any proceedings at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by this Declaration. Failure of the Association, the Declarant or any lot owner or contract purchaser to enforce any covenant or restriction in this Declaration shall not be deemed a waiver of the right to do so thereafter. The prevailing parties in any litigation involving the enforcement of these covenants shall be awarded a reasonable attorney's fee and court costs.

9. GRANTEE'S ACCEPTANCE.

The grantee of any lot subject to the coverage of these Declarations by acceptance of a deed conveying title thereof, or the execution of a contract for the purchase thereof, whether from Declarant or a subsequent owner of such lot, shall accept such deed or contract upon and subject to each and all of these Declarations and the agreements herein contained, and also the jurisdiction, rights and powers of Declarant, and by such acceptance, shall for himself, his heirs, personal representative, successors and assigns, covenant, consent and agree to and with Declarant, and to and with the grantees and subsequent owners of each of the lots within the subdivision, to keep, observe, comply with and perform said Declarations and agreements.

Each such grantee also agrees, by such acceptance, to assume, as against Declarant, its successors or assigns, all the risks and hazards of ownership and occupancy attendant to such lot, including but not limited to its proximity to any parks, children's recreational facilities, public paths, streams or other water courses.

10. AMENDMENT TO DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS.

The covenants and restrictions of this Declaration shall run with and bind with the land and shall inure to the benefit of and be enforced by the Association, the Declarant, the owners or contract purchasers of any lots subject to any Declaration, their respective legal representatives, heirs, successors and assigns for a period of thirty (30) days from the date of this Declaration as recorded, after which time said covenants shall be automatically extended for successive periods of ten (10) years, unless an instrument terminating these covenants is signed by not less than seventy five percent (75%) of the property owners or contract purchasers, which instrument shall then be filed for record with the Whatcom County Auditor's office. These covenants and restrictions may be amended by an instrument signed by not less than the owners or contract purchasers, including the Declarant during the first ten year period, then owning seventy-five percent (75%) of the property subject to this Declaration; provided, Article 4.2 and 4.4 may not be altered or amended as provided herein without the express written consent of the City of Bellingham. An amendment shall take effect upon approval as provided herein and when it has been recorded with the Whatcom County Auditor's Office.

11. SEVERABILITY.

In the event that any of these covenants, conditions and restrictions is

1534602

determined by judgment or court order to be invalid, the remaining portion or portions of this Declaration shall in no way be affected.

12. PARAGRAPH HEADINGS.

The paragraph headings in this instrument are for convenience only and shall not be considered in construing this Declaration.

13. NO WAIVER.

Failure to enforce any restriction, covenant or condition in this Declaration or any supplemental Declaration shall not operate as a waiver of any such restriction, covenant or condition or of any other restriction, covenant or condition.

DATED this 16 day of September, 1986.

TRILLIUM CORPORATION
a Washington corporation

David R. Syre
By _____

David R. Syre
Its President

Sheryl J. Case
By _____
Its Secretary

Nov 3 1986
Vol 25, Sec 1484
REQUEST OF
JOAN COOPER, AUDITOR
WHATCOM COUNTY, WASH.
DEPUTY

RECORDED

STATE OF WASHINGTON)
) ss.
COUNTY OF WHATCOM)

On this 16 day of September, 1986, before me, the undersigned, a Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared David R. Syre and Sheryl J. Case to me known to be the President and Secretary, respectively, of TRILLIUM CORPORATION, a Washington corporation, 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 they are authorized to execute the said instrument.

WITNESS my hand and official seal, the day and year first above written.

Dinda M. McCay
Notary Public in and for the State of Washington, residing in Bellingham



FIRST AMENDMENT TO DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS OF THE PLAT OF "BRIZA"

A. RECITALS.

THIS FIRST AMENDMENT TO DECLARATION IS MADE WITH REFERENCE TO THE FOLLOWING FACTS:

1. The undersigned Declarants are the owners of equal to or more than seventy-five percent (75%) of the property owners or contract purchasers of the following-described real property in Whatcom County, Washington:

THE PLAT OF BRIZA, CITY OF BELLINGHAM, COUNTY OF WHATCOM, STATE OF WASHINGTON.

2. Declarants desire to amend the Declaration of Covenants, Conditions and Restrictions of the plat of "Briza", filed under Auditor's File No. 1554602, to clarify and formalize the intent of that part of the declaration relating to the design review committee.

B. AMENDMENT TO DECLARATION.

The Declarants hereby certify and declare that the following amendment to the Declaration of Covenants, Conditions and Restrictions of the plat of "Briza", filed under Auditor's File No. 1554602, shall endure and be binding upon the respective owners of each lot, and further declare that all of the property within the plat of "Briza" described herein is held, and shall be held, conveyed, encumbered, leased, rented, used, occupied and improved subject to the following limitations, restrictions, conditions and covenants for the purpose of enhancing and protecting the value, desirability and attractiveness of the subdivision and every part thereof. All of the following limitations, restrictions, conditions and covenants shall run with the land and shall be binding on all parties having or acquiring any right, title or interest in the subdivision or any part thereof.

C. AMENDMENT.

Paragraph 5.4 of the Declaration is amended to state as follows:

5.4 No Liability. Neither Declarants, the Committee, any member or representative of the Committee, or any person who succeeds to any of those persons or entities shall be liable to any party for any action or for any failure to act in regard to the

provisions of this Declaration, including any claim to damage to persons or property arising out of contract or tort, and any person submitting plans, specifications or details to the design review committee expressly waives any claim for damages or compensation arising from breach of contract or negligence, except any claim which alleges that the committee, its successors, or their members have proceeded in bad faith or with malice.

D. Each Declarant acknowledges and shall be bound by paragraph 5.4 as amended, regardless of whether design review has been completed or not yet commenced as to that Declarant.

DATED this 9 day of September, 1988.

TRILLIUM CORPORATION, a
Washington corporation

By: David R. Syre
DAVID R. SYRE
Its: President

By: Phyllis J. Low
Its: Secretary

STATE OF WASHINGTON)
COUNTY OF WHATCOM) SS:
)

I certify that I know or have satisfactory evidence that DAVID R. SYRE signed this instrument and acknowledged it as the President of TRILLIUM CORPORATION, to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

DATE: Sept. 9, 1988

Cynthia M. Wilson
NOTARY PUBLIC
My Commission Expires: 9-20-90

John ✓ 1. All footing excavations should be inspected by a geotechnical engineer prior to pouring concrete to determine if adequate bearing has been achieved.

~~✓~~ 2. Any cut and fill slopes exceeding 2 (horizontal):1 (vertical) shall be evaluated for stability by a geotechnical engineer.

Fire Dept Permit ✓ 3. Neighbors should be notified when blasting is to occur, and blasting could be restricted to daylight hours.

Fire 4. Individual fire sprinkler systems may be required by the Fire Marshal.

Submit plan on how drainage from roof systems + earth will be planted or contained to prevent erosion. ✓ 5. Each construction site shall include provisions to control erosions such as temporary setting basins, straw bales, seeding and mulching steep slopes and shielding excavations by material such as visquine.

PASSED by the Council this 23rd day of June, 1986.

John Dayo
Council President

APPROVED by me this 3rd day of July, 1986.

John Dayo
Mayor

Attest: John Capilli
Finance Director

Approved as to Form:

Office of the City Attorney

1742N (6)

Marilynn PER OUR EARLIER DISCUSSION:

INSPECTORS

3/5/87

10:00 AM

HERE'S THE FINAL WORD;

BRIZA SUBDIVISION

Public Works does NOT HAVE ANY INTEREST IN THE EROSION CONTROL MEASURES TAKEN DURING CONSTRUCTION OF INDIVIDUAL HOMES IN THE SUBDIVISION.

Therefore, BUILDING INSPECTORS SHOULD TAKE CARE TO WATCH FOR EROSION/DRAINAGE CONTROL PROBLEMS DURING FOUNDATION AND FRAMING INSPECTIONS. PERMITS WILL BE ISSUED WITH EROSION CONTROL ITEMS INVOLVED IN THE PLANS. CONCERN YOURSELF WITH THIS ADDED ASPECT OF INSPECTION ONLY IF THERE IS EVIDENCE OF A PROBLEM. IF NECESSARY, REQUIRE THE PLAN'S EROSION CONTROL METHODS TO BE INSTALLED + MAINTAINED, BUT TRY TO AVOID DELAYING THE FOUNDATION WORK.

ALSO, ALL CIRCLED ITEMS ON NEXT SHEET ARE TO BE VERIFIED BY BUILDING INSPECTORS

DAVE

1. All footing excavations should be inspected by a geotechnical engineer prior to pouring concrete to determine if adequate bearing has been achieved.
2. Any cut and fill slopes exceeding 2 (horizontal):1 (vertical) shall be evaluated for stability by a geotechnical engineer.
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4. Individual fire sprinkler systems may be required by the Fire Marshal.
5. Each construction site shall include provisions to control erosions such as temporary setting basins, straw bales, seeding and mulching steep slopes and shielding excavations by material such as visquine.

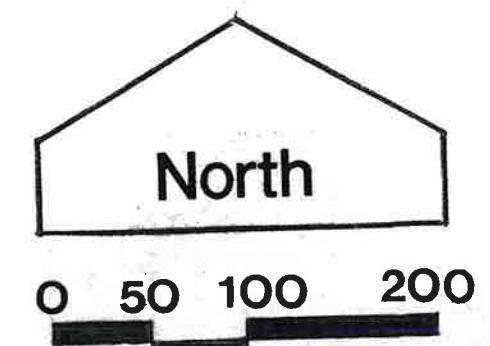
Briiza

Zoning R 1
Detached Cluster

6/20/85

Number of Lots 59

1 Acre

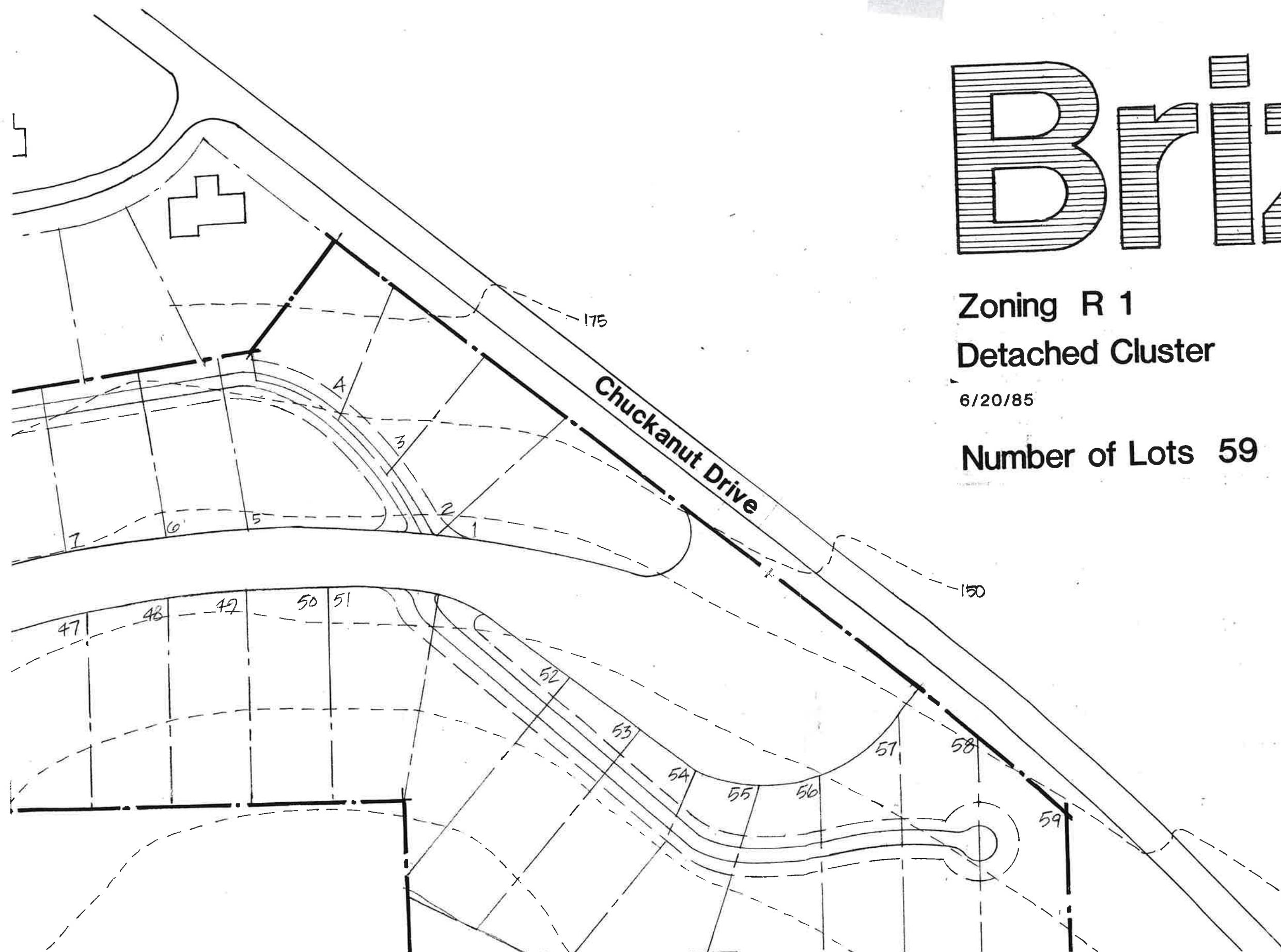


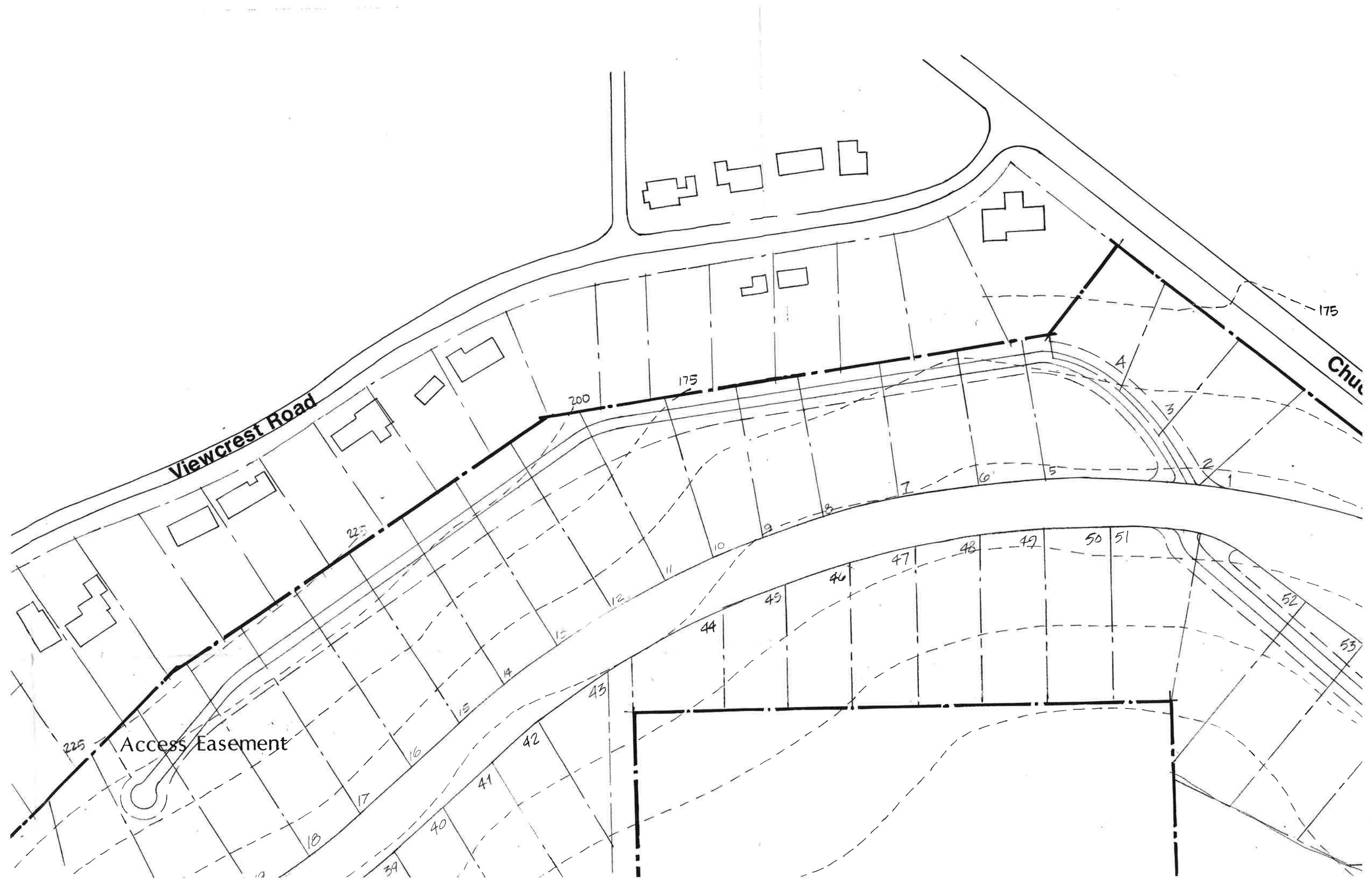
Zervas
Taysi
Johnson
Christensen

ARCHITECTS A.I.A.

513 E Street
Bellingham, WA 98225

4501 Shilshole Ave.
Seattle, WA 98107
206 783 7282







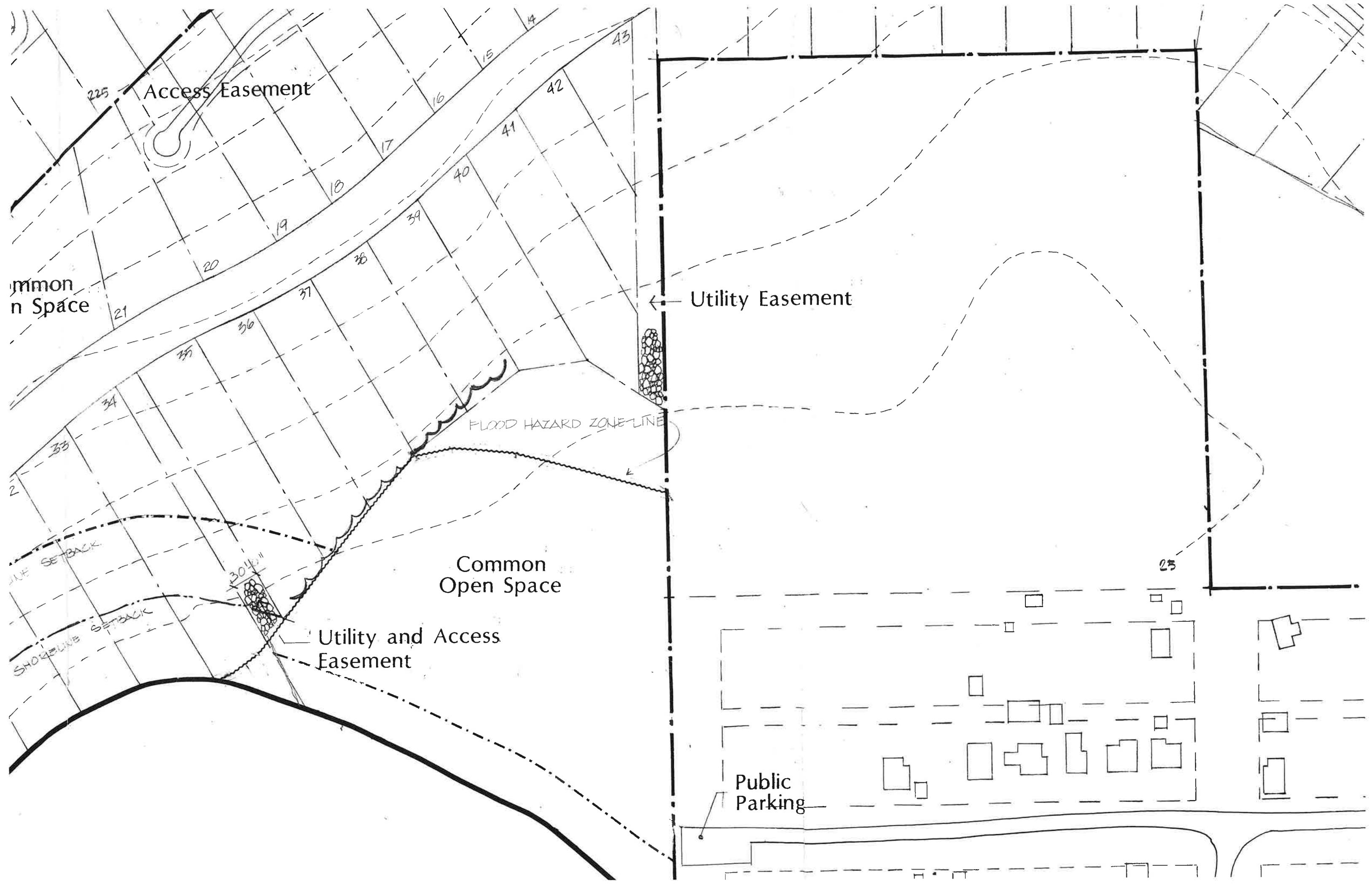
Zervas
Taysi
Johnson
Christensen

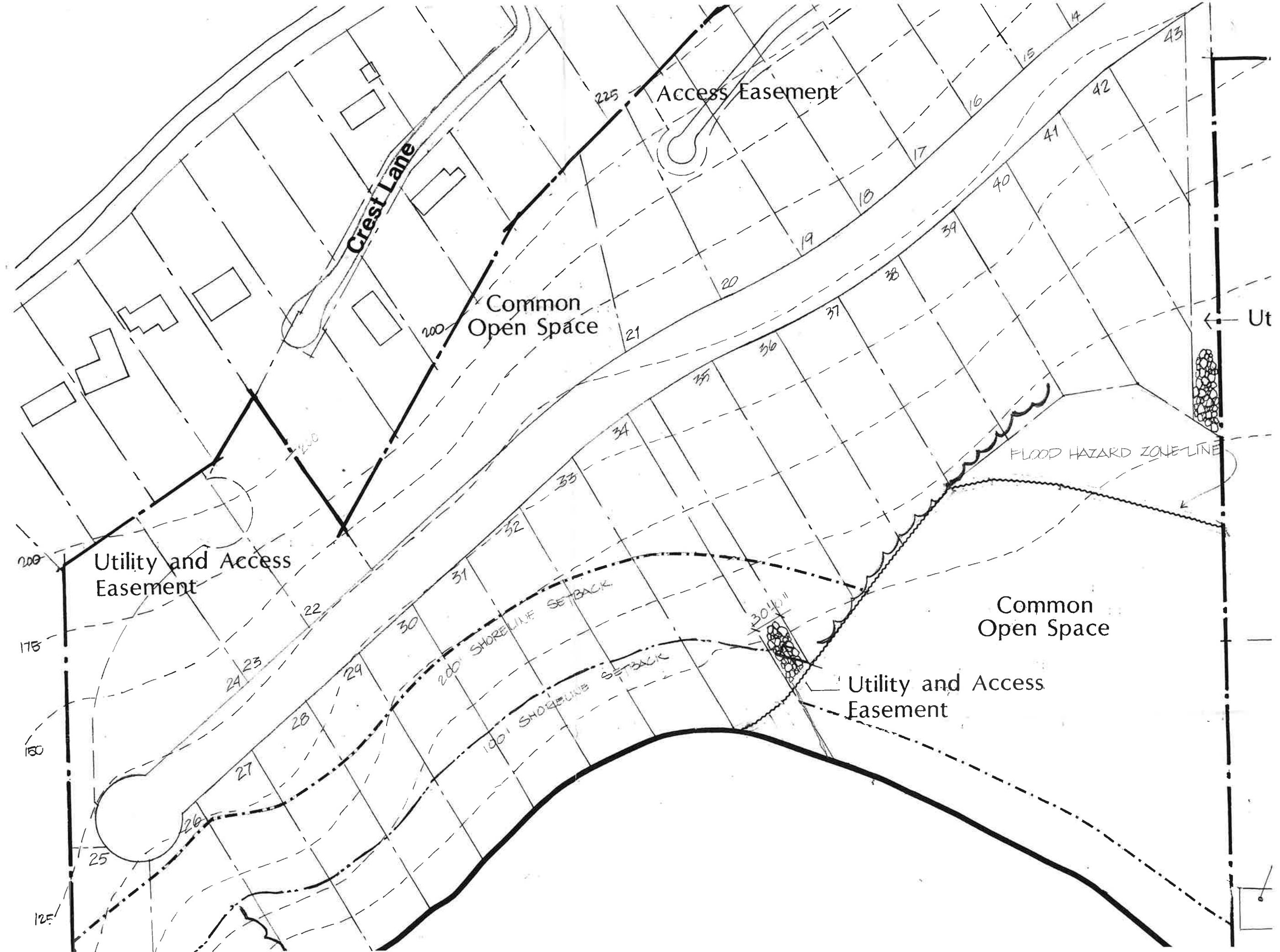
ARCHITECTS A.I.A.

513 E Street
Bellingham, WA 98225
206-734-4744

4501 Shilshole Ave
Seattle, WA 98107
206-789-7282



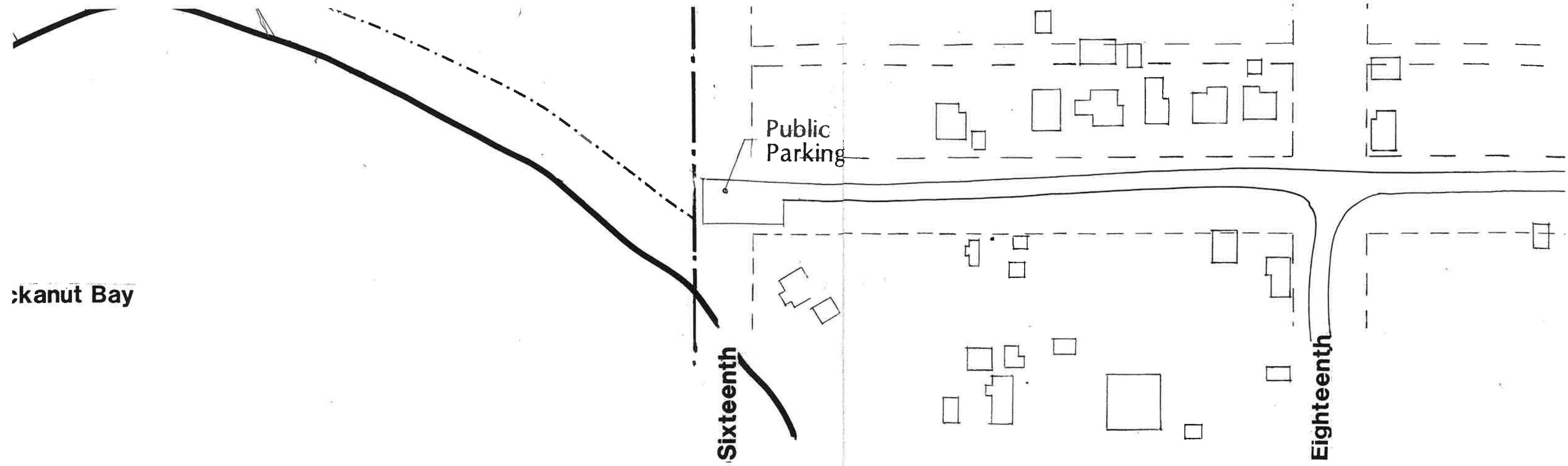


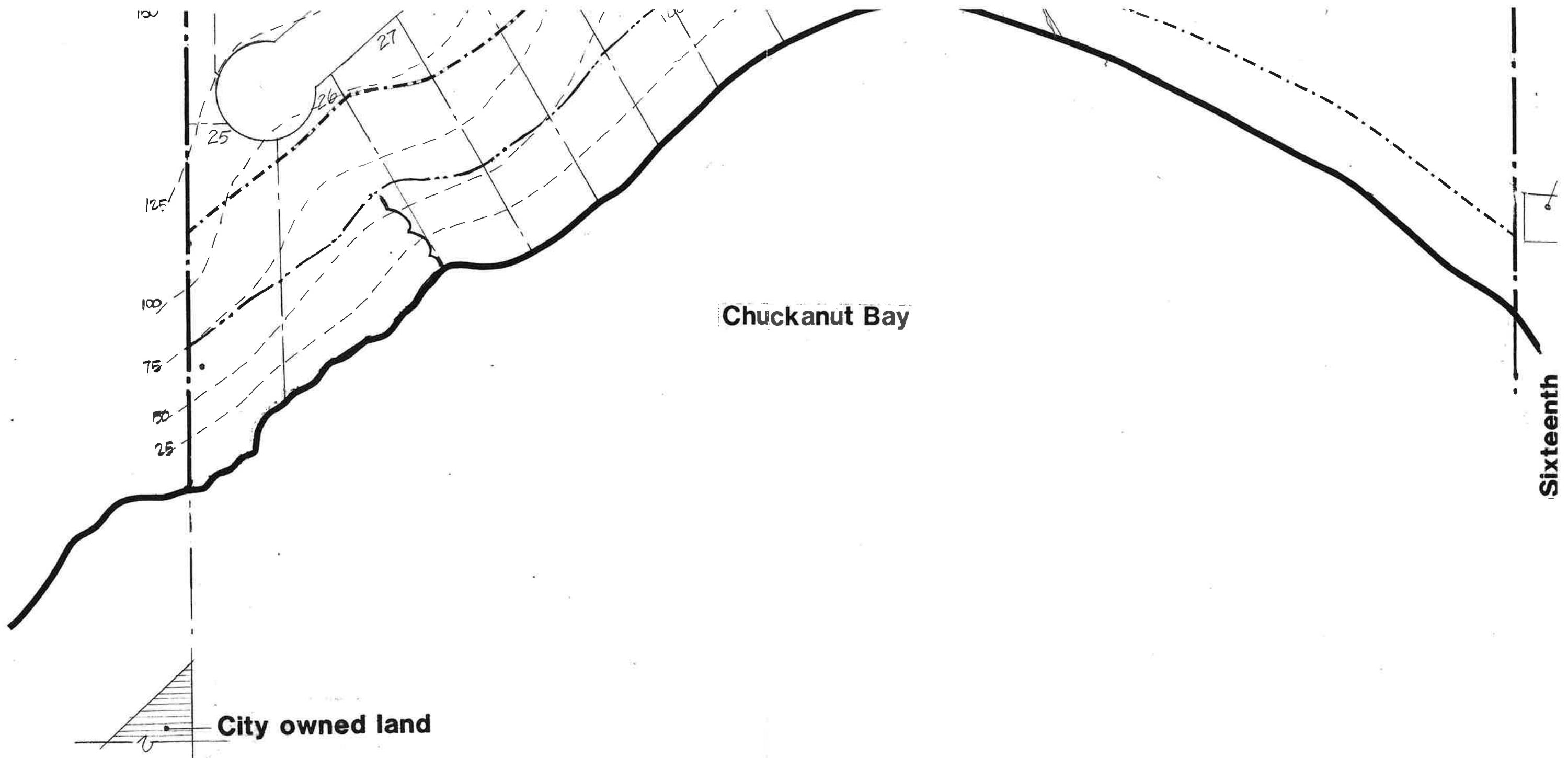


Fairhaven

Eighteenth

Twentieth







Public Comment

Name

Mary Clark

Full name or organization

Your name is required for identification as a part of the public record.

Choose Topic

The Woods at Viewcrest

Topics available for online public comment are listed above. If no topics are listed, there may be opportunities for public comment on various topics through email, letters, and public comment periods during meetings.

More information on this topic can be found at <https://cob.org/project/the-woods-at-viewcrest>

Comment or Testimony

DO NOT ALLOW THE DEVELOPMENT. There are few enough natural areas left in the area. Turning this land into a paved development is a TERRIBLE idea!

Files

Documents or images related to your comments.

Email

gocanux@comcast.net

Your email address will only be used to send you a copy of this comment and any official notifications related to this topic.

Date

12/18/2025



Public Comment

Name

Rhonda Barrett

Full name or organization

Your name is required for identification as a part of the public record.

Choose Topic

The Woods at Viewcrest

Topics available for online public comment are listed above. If no topics are listed, there may be opportunities for public comment on various topics through email, letters, and public comment periods during meetings.

More information on this topic can be found at <https://cob.org/project/the-woods-at-viewcrest>

Comment or Testimony

Please do not proceed with the proposed development of the Woods at Viewcrest.

Having grown up on Viewcrest, I am very familiar with this area. This hillside is a beautiful place, filled with trees that are essential for stability and for protecting the bay from storm runoff and landslides. They provide a home for wildlife as well as being a wonderful natural area for all to enjoy. Taking out trees and adding houses will disrupt the natural beauty and ecosystems. We need to save all the trees and natural areas while that is still possible. They aren't making any more it, only taking it away. How sad for future generations. Please prevent this from happening. Thank you

Files

Documents or images related to your comments.

Email

rgb0240@gmail.com

Your email address will only be used to send you a copy of this comment and any official notifications related to this topic.

Date

8/16/2025



Public Comment

Name

Angela T Polito

Full name or organization

Your name is required for identification as a part of the public record.

Choose Topic

Squalicum Heights Project

Topics available for online public comment are listed above. If no topics are listed, there may be opportunities for public comment on various topics through email, letters, and public comment periods during meetings.

More information on this topic can be found at <https://cob.org/project/squalicum-heights>

Comment or Testimony

Re: Squalicum Heights Project:

I am very concerned about the new density proposal and the traffic impacts of the new Squalicum Heights plan being reviewed on August 27, 2025. The number of units has been increased, which adds to the traffic which will be funneled down onto little Pebble Place and then dumped onto Woodside Way and on into the traffic shed at Chandler. Your plan estimates over 340 new car trips a day from that new development, down Pebble Place, to Woodside Way, and then to the stop sign on Chandler. I understand that the city is trying to promote infill. But it seems like COB doesn't really care if our safety, our Woodside property values, and our quality of life are negatively affected by allowing a new development to drain into the SINGLE egress/access of our quiet neighborhood. The new proposed plan allows even more homes than it did previously. WHY? Also, your traffic assessment is very outdated. And expanding the number of proposed homes is a slap and a danger to our neighborhood.

SOME of my concerns are:

1. Over 350 additional car trips a day are predicted by you if this plan goes through. Each day commuter cars will become backed up on Pebble Place while leaving and returning to the development to go to work or school etc. Pebble Place is too short to handle so many cars . When they hit the corner onto Woodside it will become congested, right at the time folks are heading to work and school.
2. Cars from the Squalicum Heights development coming down Woodside would also become backed up at the Chandler/Woodside corner. Historically, Woodside cars turn left or right off of steep Woodside Way onto Chandler to get to town. There is a stop sign at the corner and the children's school bus stop is also there. Visibility to the south is limited, and it's already true that, because cars on Chandler speed by so fast, it is difficult to anticipate them when anyone turns. So it is already a situation that has inherent dangers -including kids horsing around on the Chandler/Woodside corner, kids walking to school, no crosswalks on Woodside Way, Chandler cars speeding, and limited visibility.
3. Also, Woodside Way is steep and dangerous in winter. In winter it is also already difficult to get safely down the Woodside hill without skidding and sliding on ice and snow - right into Chandler Parkway. I've personally seen a car skid past the stop sign into Chandler. We've avoided significant accidents because we usually don't have backed-up traffic hitting that corner all at once and running into each other. But traffic on Chandler has increased and speeds along, and more cars at the corner means more risks on the snowy hill. There is no other way out of Woodside Community. Crowding it is wrong.
4. The increased traffic from the proposed plan would add to the danger of accidents at that intersection, where it's hard to see Chandler traffic coming from the south, and there are often kids fooling around on the corner in the mornings, waiting for the bus. I read that the city assessed traffic dangers as minimal when they did the traffic assessment. Five years ago. Well, there needs to be another assessment, done during school-times, rush hours, and icy times. Things have changed since 2020.
5. Pebble Place is very short and has no parking availability except driveways. Because the variance proposes 45 houses instead of 35, Squalicum Heights residents will have even less parking in their development than proposed previously. One danger is that the excess autos from the new development

Files

Documents or images related to your comments.

Email

angela.polito@comcast.net

Your email address will only be used to send you a copy of this comment and any official notifications related to this topic.

Date

8/18/2025



Public Comment

Name

Miles Silverman

Full name or organization

Your name is required for identification as a part of the public record.

Choose Topic

The Woods at Viewcrest

Topics available for online public comment are listed above. If no topics are listed, there may be opportunities for public comment on various topics through email, letters, and public comment periods during meetings.

More information on this topic can be found at <https://cob.org/project/the-woods-at-viewcrest>

Comment or Testimony

To the planning department,

The best I can say about the proposed development is that it builds housing, which we need, and that Edgemoor's density is so remarkably low that cycling to Fairhaven should be a non-issue.

Have we not learned anything in the past ten years? Have the myriad municipal and state-level policy changes been for naught? Were we not done with suburban sprawl?

In recent years, new greenfield developments in the north of town have sought to repair the reputation of building out by including redeeming qualities in what they build. These places are designed to be best experienced on foot, with lively street frontages (some of which even narrow when street parking is not needed), dedicated pedestrian walkways, continuous sidewalks and raised crossings, and public green spaces to be shared by all, while garages are tucked away to support these streets. Multimodal connections via bus are also robust, allowing people to easily get to and from these neighborhoods without a car. A mix of housing shapes and sizes are built in these neighborhoods, providing more affordable places to live and enabling a more fiscally responsible level of housing density.

Essentially none of these lessons can be found in the proposed project. Lots are large and generously spaced (posing problems for both community-building and the city's finances in a few decades), streets are nearly thirty feet wide but somehow only manage a sidewalk on one side with no boulevard, there is no public space and little transit service anywhere near the site, and one can be certain the houses built here will sell for seven figures.

Of all the ways to tackle the housing crisis, this is one of the least responsible ways to do so.

Miles Silverman
Cordata

Files

Documents or images related to your comments.

Email

selixmi42@gmail.com

Your email address will only be used to send you a copy of this comment and any official notifications related to this topic.

Date

9/9/2025

From: Joanne Allison, JA1448@comcast.net

December 2, 2025

Subject: Require an EIS for the Proposed Subdivision on Mud Bay Cliffs

Dear Ms. Bell, Mr. Sundin, and Mr. Lyon,

I ask you to prevent harms to Bellingham's publicly-owned spaces connected to Mud Bay Cliffs, and to safeguard our community against known and severe subdivision development risks, by requiring an Environmental Impact Statement (EIS) be prepared for *The Woods at Viewcrest*, a proposed subdivision on the mature woodlands and wetlands of Mud Bay Cliffs.

The proposed subdivision (of 4 current lots into 38 proposed lots, with up to 152 housing units) would likely impose **significant adverse impacts to the environment**. In addition to these adverse impacts, the developer's application materials are flawed in substantive ways, which further exposes the public's interests, including public investments in neighboring fish and wildlife habitats, to considerable risk. The likely significant adverse impacts, coupled with the substantive application flaws, compel the city to issue a State Environmental Protection Act (SEPA) Determination of Significance and require an EIS.

A. Unique and Special Site. The location of the proposed subdivision is unique both in its **specific characteristics** and its **physical setting**. These unique characteristics and physical setting are important factors that influence why the current subdivision proposal is likely to have significant adverse environmental impacts. The site of this proposed subdivision is currently distinguished by these features:

Specific Characteristics

- **Important Habitat Hub.** The 2021 City of Bellingham *Wildlife Corridor Analysis* designates this property, which consists of rare mature shoreline woodlands and wetlands habitat, as an *Important Habitat Hub* – and one of the only *Important Habitat Hubs* in south Bellingham that remains unprotected.
- **Geohazards.** Significant landslide, erosion and seismic hazards exist throughout the site, and they are sensitive to development disturbances including hydrological changes.
- **Storm Microclimate.** This location is well-known locally for its microclimate of gales during storms – among the strongest gales in Bellingham. Gale intensity has been increasing over the past decade due to climate change. The existing mature woodland acts as a protective buffer for wildlife (both resident and sheltering), and for the community.

Physical Setting

- **Wildlife Network.** This *Important Habitat Hub* is the center part that links two other *Important Habitat Hubs* – Clark's Point and Chuckanut Village Marsh/ Chuckanut Bay Open Space – all of which are connected to a larger, protected *Wildlife Network*. The public has invested heavily to protect and maintain the Hubs and Corridors of this *Wildlife Network*.
- **Estuarine Wetlands.** Mud Bay Cliffs is a key watershed adjacent to Mud Bay's Category I Estuarine Wetlands.
- **Stormwater.** Most drainage from this site flows directly into the Mud Bay Estuarine Wetlands. Drainage discharges from existing city stormwater outlets have already begun to impair the health of this wetland habitat.

- **Great Blue Herons.** The Post Point Colony of Great Blue Herons relies on this site for shelter, and on the Mud Bay Estuarine Wetlands to feed their young. This Heron Colony fled its previous home near Chuckanut Bay as a result of subdivision development activity. Significant public investment has been made to provide habitat protection for this Colony at its new Post Point nesting location.
- **Salmon.** Juvenile salmonids rely on clean water and safe passage through the Mud Bay Estuarine Wetlands, Chuckanut Village Marsh, and Chuckanut Creek. Significant public investment has been made to restore these habitats for salmon.
- **Traffic Safety and Level of Service.**
 - Traffic safety issues have been well documented on Edgemoor's narrow, hilly roads with limited sightlines, including where Viewcrest Road intersects Chuckanut Drive (State Route 11). The traffic conditions where Fairhaven Middle School meets the 12th Street Bridge are particularly dangerous. These well-documented issues create precarious and unsafe conditions for walkers, runners, cyclists, and motorists. The city has been notified of these hazardous conditions but has yet to take any action to mitigate them.
 - Viewcrest Road and the roadways it intersects provide unique access to important public amenities. These amenities tend to have more visitors seasonally and on weekends. Viewcrest's intersection with Chuckanut Drive is significant as an access point to public amenities including Clark's Point, Hundred Acre Woods (trailhead at the

intersection), and the Chuckanut Scenic Byway (which itself is the sole access to multiple public parklands, trail systems, and public natural amenities).

B. Severe Application Flaws. The proposed subdivision application is severely flawed. Objective and comprehensive assessments suitable to this unique site and setting must be completed to address these flaws before an informed consideration of any subdivision proposals can be made. For example:

- The Stormwater Management Plan is incomplete, lacking key required plan elements. As proposed, the subdivision would result in significant increases in runoff volumes, speeds, and sediment/pollution loads. Moreover, by discharging polluted stormwater into the Mud Bay Estuarine Wetlands, significant adverse environmental impacts are probable. The plan fails to address how the ecologically sensitive Mud Bay Estuarine Wetlands, and the Public Shoreline, will be impacted by this development.
- The Wildlife Habitat Assessment fails to: identify this site as an *Important Habitat Hub* connected to other nearby hubs by two Important Habitat Corridors; address the harmful *wildlife Habitat Network* fragmentation the proposed development would cause; address impacts to the Mud Bay Estuarine Wetlands and salmon habitat of Chuckanut Village Marsh and Chuckanut Creek; address impacts to the Post Point Heron Colony (feeding and sheltering); provide a sufficient wildlife inventory.
- The Geotechnical Investigation & Geohazard Report fails to assess the impact of development on groundwater flow and the likely increase in probability, frequency and magnitude of flooding, erosion, and landslide activity. It is documented that development activities would

likely make the site hazardous for the subdivision residents, neighbors, and the community at large. These dangers would begin with development disturbances, and would persist for decades to come.

- There is no Hydrology assessment at all, which this unique site's characteristics and setting necessitate. A Hydrology report is essential to evaluate potential environmental impacts, and ensure that any development at this site will not harm local ecosystems and water quality. Clearly, development of infrastructure such as roads, retention walls, driveways, structures and other hardscaping will alter the topography and the flow of water on this geologically complex site. With soils disturbances and proposed infrastructure cutting across the site, it is probable that saturation, drainage, and flooding would be greatly affected. Erosion, rockfall, landslide and flooding to the north would be likely, unless plans are developed using Hydrology information. These likely impacts could severely affect neighboring public and private lands, waters, and wildlife habitat.
- The applicant has failed to show how tree removal during both initial infrastructure development, and then later by lot owners, would impact the **mature woodland**. There is no assessment for how the gales from worsening storms, combined with extensive tree removal, would impact sheltering wildlife and public safety. There is no assessment of how the remaining trees in the proposed narrow 200-foot "buffer" along the shoreline would be affected by adjacent tree removal; it is probable that tree removal would degrade the health of nearby trees in the proposed "buffer" wildlife habitat connecting two Important Habitat Hubs.
- The Traffic Impact Analysis fails to address how Levels of Service to public parks, public natural amenities, and scenic byway would be impacted by traffic from this development. Further, it fails to address

the known public safety issues which would be exacerbated by increased traffic from the 152 potential new housing units, since fourplexes would be allowed on all 38 lots under a new statewide law.

Because of this site's unique specific characteristics and unique physical setting, and because of the subdivision application's profound flaws, the city does not have the accurate, sufficient, and objective information it needs to identify and assess potential significant adverse impacts.

Moreover, the application materials themselves indicate that the proposal is likely to have a significant adverse impact on the natural environment, the built environment, and public health and safety.

I ask the city to protect our public interest and prevent harms to the community:

Require an Environmental Impact Statement, so that any permit decisions are based on a full understanding of the risks to the environment, and to public safety.

Sincerely,

M. Joanne Allison

Kathy M Bell

From: Ruth Olsen <rutholsen@hotmail.com>
Sent: Saturday, December 6, 2025 6:49 PM
To: Kathy M Bell; Steven C Sundin; Blake G Lyon
Subject: Require an EIS for the Proposed Subdivision on Mud Bay Cliffs

Some people who received this message don't often get email from rutholsen@hotmail.com. [Learn why this is important](#)

CAUTION: This message originated from outside of this organization. Please exercise caution with links and attachments.

To: Kathy Bell, Senior Planner, kbell@cob.org
Steve Sundin, Senior Planner, ssundin@cob.org
Blake Lyon, Planning & Community Development Department Director, bglyon@cob.org
Planning & Community Development Department
210 Lottie Street
Bellingham, WA 98225

From:
Ruth Olsen
3000 Victor St.
Bellingham, WA 98225

December 6, 2025

Dear Ms. Bell, Mr. Sundin, and Mr. Lyon,

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A. Unique and Special Site. The location of the proposed subdivision is unique both in its **specific characteristics** and its **physical setting**. These unique characteristics and physical setting are important factors that influence why the current subdivision proposal is likely to have significant adverse environmental impacts. The site of this proposed subdivision is currently distinguished by these features:

Specific Characteristics

- **Important Habitat Hub.** The 2021 City of Bellingham *Wildlife Corridor Analysis* designates this property, which consists of rare mature shoreline woodlands and wetlands habitat, as an *Important Habitat Hub* – and one of the only *Important Habitat Hubs* in south Bellingham that remains unprotected.
- **Geohazards.** Significant landslide, erosion and seismic hazards exist throughout the site, and they are sensitive to development disturbances including hydrological changes.

- **Storm Microclimate.** This location is well-known locally for its microclimate of gales during storms – among the strongest gales in Bellingham. Gale intensity has been increasing over the past decade due to climate change. The existing mature woodland acts as a protective buffer for wildlife (both resident and sheltering), and for the community.

Physical Setting

- **Wildlife Network.** This *Important Habitat Hub* is the center part that links two other *Important Habitat Hubs* – Clark’s Point and Chuckanut Village Marsh/ Chuckanut Bay Open Space – all of which are connected to a larger, protected *Wildlife Network*. The public has invested heavily to protect and maintain the Hubs and Corridors of this Wildlife Network.
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- **Salmon.** Juvenile salmonids rely on clean water and safe passage through the Mud Bay Estuarine Wetlands, Chuckanut Village Marsh, and Chuckanut Creek. Significant public investment has been made to restore these habitats for salmon.
- **Traffic Safety and Level of Service.**
 - Traffic safety issues have been well documented on Edgemoor’s narrow, hilly roads with limited sightlines, including where Viewcrest Road intersects Chuckanut Drive (State Route 11). The traffic conditions where Fairhaven Middle School meets the 12th Street Bridge are particularly dangerous. These well-documented issues create precarious and unsafe conditions for walkers, runners, cyclists, and motorists. The city has been notified of these hazardous conditions but has yet to take any action to mitigate them.
 - Viewcrest Road and the roadways it intersects provide unique access to important public amenities. These amenities tend to have more visitors seasonally and on weekends. Viewcrest’s intersection with Chuckanut Drive is significant as an access point to public amenities including Clark’s Point, Hundred Acre Woods (trailhead at the intersection), and the Chuckanut Scenic Byway (which itself is the sole access to multiple public parklands, trail systems, and public natural amenities).

B. Severe Application Flaws. The proposed subdivision application is severely flawed. Objective and comprehensive assessments suitable to this unique site and setting must be completed to address these flaws before an informed consideration of any subdivision proposals can be made. For example:

- The Stormwater Management Plan is incomplete, lacking key required plan elements. As proposed, the subdivision would result in significant increases in runoff volumes, speeds, and sediment/pollution loads. Moreover, by discharging polluted stormwater into the Mud Bay Estuarine Wetlands, significant

adverse environmental impacts are probable. The plan fails to address how the ecologically sensitive Mud Bay Estuarine Wetlands, and the Public Shoreline, will be impacted by this development.

- The Wildlife Habitat Assessment fails to: identify this site as an *Important Habitat Hub* connected to other nearby hubs by two Important Habitat Corridors; address the harmful wildlife *Habitat Network* fragmentation the proposed development would cause; address impacts to the Mud Bay Estuarine Wetlands and salmon habitat of Chuckanut Village Marsh and Chuckanut Creek; address impacts to the Post Point Heron Colony (feeding and sheltering); provide a sufficient wildlife inventory.
- The Geotechnical Investigation & Geohazard Report fails to assess the impact of development on groundwater flow and the likely increase in probability, frequency and magnitude of flooding, erosion, and landslide activity. It is documented that development activities would likely make the site hazardous for the subdivision residents, neighbors, and the community at large. These dangers would begin with development disturbances, and would persist for decades to come.
- There is no Hydrology assessment at all, which this unique site's characteristics and setting necessitate. A Hydrology report is essential to evaluate potential environmental impacts, and ensure that any development at this site will not harm local ecosystems and water quality. Clearly, development of infrastructure such as roads, retention walls, driveways, structures and other hardscaping will alter the topography and the flow of water on this geologically complex site. With soils disturbances and proposed infrastructure cutting across the site, it is probable that saturation, drainage, and flooding would be greatly affected. Erosion, rockfall, landslide and flooding to the north would be likely, unless plans are developed using Hydrology information. These likely impacts could severely affect neighboring public and private lands, waters, and wildlife habitat.
- The applicant has failed to show how tree removal during both initial infrastructure development, and then later by lot owners, would impact the **mature woodland**. There is no assessment for how the gales from worsening storms, combined with extensive tree removal, would impact sheltering wildlife and public safety. There is no assessment of how the remaining trees in the proposed narrow 200-foot "buffer" along the shoreline would be affected by adjacent tree removal; it is probable that tree removal would degrade the health of nearby trees in the proposed "buffer" wildlife habitat connecting two Important Habitat Hubs.
- The Traffic Impact Analysis fails to address how Levels of Service to public parks, public natural amenities, and scenic byway would be impacted by traffic from this development. Further, it fails to address the known public safety issues which would be exacerbated by increased traffic from the 152 potential new housing units, since fourplexes would be allowed on all 38 lots under a new statewide law.

Because of this site's unique specific characteristics and unique physical setting, and because of the subdivision application's profound flaws, the city does not have the accurate, sufficient, and objective information it needs to identify and assess potential significant adverse impacts.

Moreover, the application materials themselves indicate that the proposal is likely to have a significant adverse impact on the natural environment, the built environment, and public health and safety.

I ask the city to protect our public interest and prevent harms to the community:

Require an Environmental Impact Statement, so that any permit decisions are based on a full understanding of the risks to the environment, and to public safety.

Sincerely,
Ruth Olsen



Net Loss of Ecological Functions to Shoreline Critical Areas from Woods at Viewcrest Proposal

I. Executive Summary

This document evaluates the net loss of ecological functions to the Mud Bay estuarine ecosystem associated with stormwater discharges from the proposed Woods at Viewcrest subdivision. In Washington State, the Mud Bay ecosystem is a Category I wetland and a Shoreline of State Significance. It includes several highly sensitive pocket estuaries and designated critical saltwater habitats for ESA listed species and a host of other marine and estuarine dependent faunal species. Its shallow depths, limited circulation, and exposure to regular diurnal tides reduces the potential dilution of stormwater introduced to the system and increases the likelihood that pollutants delivered via stormwater will persist in sediments and in biological communities.

The proposed project relies on Modular Wetland System (MWS) stormwater treatment units that provide only partial removal of several key pollutant classes and do not demonstrate removal of certain contaminants, including the tire-derived chemical 6PPD-quinone. Manufacturer performance data report median removal efficiencies, meaning that substantial pollutant loads remain in discharged stormwater during typical conditions and that approximately half of storm events perform worse than reported medians.

Peer-reviewed estuarine science demonstrates that dissolved nutrients, dissolved metals, petroleum hydrocarbons, and tire-derived organic chemicals can degrade water quality, impair benthic communities, disrupt fish behavior and survival, and propagate impacts through estuarine food webs. In estuaries such as Mud Bay, repeated stormwater discharges – particularly during low-tide/low water conditions – create cumulative exposure pathways that extend beyond individual storm events.

Under SEPA's low threshold for significance, the combination of a sensitive receiving environment, partial and uncertain stormwater treatment effectiveness, and documented toxicity of key pollutants establishes a reasonable likelihood of probable adverse environmental impacts and warrants further environmental review.

II. Affected Environment: Mud Bay Estuarine Ecosystem



(Source: Washington Dept. of Ecology Shoreline Photo Viewer)

Mud Bay is a **functionally integrated estuarine system**. It is composed of the Chuckanut Creek pocket estuary, tidal channels, salt marshes, Category I estuarine wetlands, extensive mudflats and sandflats, and shoreline areas designated as Critical Saltwater Habitat and Shoreline of Statewide Significance.

The 2006 [Management Recommendations for City of Bellingham Pocket Estuaries](#) identifies the Chuckanut Creek estuary as providing the *highest level of ecological function among the City's pocket estuaries*, including habitat for estuary-dependent salmonids, forage fish, shellfish and benthic organisms, migratory waterfowl, bald eagles, and the City's Great Blue Heron colony.

Independent wetland characterization further confirms that the Chuckanut Marsh and Mud Bay complex provide **moderate to high ecological functions**, notwithstanding past land uses and existing anthropogenic constraints. Because estuarine habitats

within Bellingham Bay have been substantially reduced over time, remaining systems such as Mud Bay are **disproportionately important and highly sensitive to changes in hydrology and water quality**.

As described in detail below, stormwater discharges associated with the proposed Woods at Viewcrest development – including the discharge of toxic tire-derived compounds such as **6PPD-quinone** and high levels of **nitrogen** and **phosphorus** nutrients – have the potential to adversely affect the ecological functions that define Mud Bay's significance, particularly where pollutants are conveyed directly to estuarine wetlands, mudflats, and nearshore habitats relied upon by fish and wildlife.

III. Regulatory and Ecological Context

Critical Saltwater Habitat

The mudflats in Mud Bay are designated as **critical saltwater habitat** under Washington law and local critical areas regulations. Such habitats support essential life-history functions for fish, shellfish, and migratory birds and are afforded heightened protection due to their sensitivity to changes in water quality, sediment chemistry, and hydrologic conditions.

Category I Estuarine Wetlands

Mud Bay is a **Category I estuarine wetland**, which are among the most ecologically valuable and least replaceable wetland types. Estuarine wetlands integrate watershed-scale inputs and are particularly vulnerable to pollutant accumulation because contaminants delivered via stormwater are retained in sediments and biological communities.

Pocket Estuary Sensitivity to Water Quality Degradation

Portions of the Mud Bay ecosystem function as “**pocket estuaries**”, characterized by shallow depths, restricted circulation, intertidal exposure, and strong coupling between the water column and sediments. These features reduce dilution capacity and increase residence time for pollutants, making water quality degradation more consequential than in larger, well-flushed marine systems.

IV. Description of Proposed Stormwater Discharges

Outfall Location and Receiving Environment

The Woods at Viewcrest project proposes to discharge stormwater to the Mud Bay shoreline via a stormwater outfall. The receiving environment includes intertidal mudflats and sandflats and adjacent estuarine wetlands that are exposed during low

tide and directly contacted by stormwater during discharge events. The receiving environment also include the popular pedestrian Chuckanut Beach Trail and recreation areas.

Flow Pathways to Estuarine Wetlands and Mudflats

Stormwater from impervious surfaces is conveyed to the proposed outfall and discharged to the estuarine environment. During moderate- to low-tide conditions, stormwater will flow across exposed or shallow sediments rather than being immediately mixed into the water column. This pathway increases direct interaction between stormwater pollutants and sediments, porewater, and benthic organisms.

V. 6PPD-Quinone: Chemical Characteristics & Toxicity

Transformation from 6PPD to 6PPD-Quinone

6PPD-quinone (6PPD-Q) is a transformation product formed when the tire additive 6PPD reacts with ozone and other oxidants. This transformation occurs readily in urban runoff, making 6PPD-Q a common constituent of roadway-derived stormwater.

Acute Toxicity to Coho and Implications for Estuarine Exposure

Peer-reviewed research demonstrates that 6PPD-Q is **acutely toxic to coho salmon at low concentrations**, causing rapid mortality following short-term exposure.¹² Although much of the initial research focused on freshwater systems, the risk remains relevant to estuarine environments where stormwater discharges enter shallow, low-dilution zones. In pocket estuaries such as Mud Bay, episodic stormwater pulses may produce transient but biologically significant exposure events affecting fish that use estuarine habitat for migration and rearing.¹³

VI. Stormwater Treatment Limitations

General Capabilities of Modular Wetland System Stormwater Treatment Units

Modular Wetland System (MWS) units are primarily designed to reduce **particulate-bound pollutants**, such as suspended solids and associated contaminants, through settling and biological uptake. Performance data typically report **median removal efficiencies**, reflecting average conditions rather than worst-case or peak-flow performance.¹

The following chart of *Median Removal Efficiency* for each *Pollutant of Concern* is included in the Contech Engineered Solutions MWS brochure.

POLLUTANT OF CONCERN	MEDIAN REMOVAL EFFICIENCY	MEDIAN EFFLUENT CONCENTRATION (MG/L)
Total Suspended Solids (TSS)	89%	12
Total Phosphorus - TAPE (TP)	61%	0.041
Nitrogen (TN)	23%	1
Total Copper (TCu)	50%	0.006
Total Dissolved Copper	37%	0.006
Total Zinc (TZn)	66%	0.019
Dissolved Zinc	60%	0.0148
Motor Oil	79%	0.8

(Source: Contech Engineered Solutions MWS brochure)

VII. Pollutants Not Adequately Removed by MWS Units

As illustrated in Contech's *Median Removal Efficiency* chart, the proposed Modular Wetland System units provide only partial removal of several key stormwater pollutant classes and do not address certain contaminants at all. Even where median removal efficiencies are reported, substantial fractions of influent pollutants remain in discharged stormwater and are conveyed directly to the Mud Bay estuarine system.¹ See MWS Pollutant Chart in Appendix I.

Dissolved Nutrients (Nitrogen and Phosphorus)

The *Median Removal Efficiency* chart indicates that the MWS units remove only a limited portion of total nitrogen and total phosphorus under median performance conditions, leaving the majority of nitrogen and a substantial fraction of phosphorus in discharged effluent. Dissolved nutrient forms remain biologically available upon discharge and are readily incorporated into estuarine biogeochemical processes.²

In pocket estuaries such as Mud Bay, repeated nutrient inputs can stimulate excess primary production, increase organic matter deposition to sediments, and elevate microbial oxygen demand during decomposition.³ These processes contribute to reduced dissolved oxygen conditions in sediments and near-bottom waters, resulting in stress to benthic invertebrates and degradation of habitat quality for fish species that rely on estuarine environments.⁴

Because Mud Bay waters experience limited flushing and frequent low-tide exposure, nutrient accumulation is more likely to persist and intensify over time rather than dissipate rapidly.⁵

Dissolved Metals (Copper and Zinc)

The *Median Removal Efficiency* chart further shows that only partial removal is achieved for dissolved metals, including copper and zinc, with a substantial fraction remaining in discharged stormwater. Dissolved metals represent the biologically available fraction and therefore pose greater ecological concern than particulate-bound forms.¹

Once discharged to Mud Bay, dissolved copper and zinc will remain in the water column or bind to sediments over time, creating zones of chronic exposure. Copper has been shown to interfere with sensory and behavioral functions in salmonids, including olfactory-mediated predator avoidance and homing behavior.⁶

Zinc exposure has been associated with altered benthic community structure and reduced recruitment of invertebrate taxa.⁷ In estuarine mudflat settings, these effects may occur at relatively low concentrations due to prolonged exposure and repeated inputs.⁸

Petroleum Hydrocarbons and Associated Compounds

The *Median Removal Efficiency* chart indicates that petroleum hydrocarbons are only partially removed by the MWS units, with a measurable fraction remaining in the effluent under median conditions. Hydrocarbons and associated compounds, including polycyclic aromatic hydrocar (PAHs), readily associate with sediments and organic matter.¹

In intertidal mudflat environments, PAHs persist in anaerobic or low-oxygen sediments and are strongly correlated with chronic toxicity to benthic organisms.⁹ Such exposure impairs growth, reproduction, and survival of sediment-dwelling invertebrates and contributes to long-term degradation of sediment quality.¹⁰ These effects may propagate through the food web by reducing prey availability for fish and birds that forage in estuarine habitats.¹¹

Tire-Derived Organic Chemicals, Including 6PPD-Quinone

The *Median Removal Efficiency* chart confirms that the proposed stormwater treatment system does **not demonstrate removal of tire-derived organic chemicals**, including 6PPD-quinone.¹ Stormwater discharges from the project are therefore reasonably expected to convey these compounds directly to Mud Bay without treatment.

6PPD-quinone is highly mobile in water and causes acute mortality in coho salmon at concentrations measured in urban stormwater runoff, with mortality occurring within hours of exposure.¹² In shallow estuarine systems with limited dilution capacity, episodic stormwater discharges may produce transient concentration spikes that are biologically significant.¹³ During moderate- to low-tide conditions, discharged stormwater will flow across or infiltrate exposed sediments, extending exposure pathways beyond the immediate water column and increasing the potential for contact with benthic organisms and fish.¹⁴

Cumulative Effects of Partially Treated and Untreated Pollutants

Although individual storm events may appear short-lived, a consistent fraction of multiple pollutant classes is discharged during each event, even under median treatment performance. Over time, repeated discharges result in cumulative loading of nutrients, metals, hydrocarbons, and tire-derived chemicals to sediments and biological communities.¹⁵

In estuarine systems where hydrologic exchange is constrained and sediments function as long-term sinks for contaminants, cumulative inputs increase the likelihood of persistent water quality degradation and ecological impact.¹⁶ Interactions among multiple pollutant classes further raise the potential for synergistic and indirect effects not captured by pollutant-by-pollutant analysis.¹⁷

VIII. SEPA Significance Thresholds

Probable Adverse Impacts

SEPA does not require certainty of harm. Where credible scientific evidence demonstrates a reasonable likelihood of probable adverse environmental impacts, additional environmental review is required.

Uncertainty and Risk in Sensitive Environments

Scientific uncertainty regarding the estuarine impacts of emerging contaminants such as 6PPD-quinone heightens, rather than diminishes, the need for precautionary evaluation in Category I estuarine wetlands and critical saltwater habitat.

IX. Conclusion

Mud Bay is a highly sensitive estuarine system with limited capacity to filter, transform, store, or effectively cycle poor quality water. The Woods at Viewcrest project proposes stormwater discharges that introduce a mixture of pollutants—including nutrients, metals, petroleum hydrocarbons, and 6PPD-quinone—through pathways that increase exposure risk.

Because the proposed stormwater treatment system provides only partial removal and does not address certain toxic compounds, substantial pollutant loads remain in discharged stormwater even under median performance conditions.

Given the sensitivity of the Mud Bay estuarine receiving environment, the demonstrated toxicity of key stormwater pollutants, and the uncertainty surrounding cumulative and estuarine-specific effects, further environmental review is warranted under SEPA.

Endnotes

1. **Contech Engineered Solutions, Modular Wetlands® Performance Summary and Pollutant Removal Data** (technical documentation) (on file with the City of Bellingham).
2. J.E. Cloern, *Our Evolving Conceptual Model of the Coastal Eutrophication Problem*, 210 **Marine Ecology Progress Series** 223, 226-30 (2001).
3. *Id.* at 231-35.
4. R.J. Diaz & R. Rosenberg, *Spreading Dead Zones and Consequences for Marine Ecosystems*, 321 **Science** 926, 927-29 (2008).
5. M.J. Kennish, *Environmental Threats and Environmental Future of Estuaries*, 29 **Envnl. Conservation** 78, 84-88 (2002).
6. J.F. Sandahl et al., *Copper Exposure Disrupts Olfactory-Mediated Behaviors in Salmonids*, 26 **Envnl. Toxicology & Chemistry** 2066, 2068-71 (2007).
7. G.W. Bryan & W.J. Langston, *Bioavailability, Accumulation, and Effects of Heavy Metals in Sediments*, 31 **Marine Pollution Bulletin** 229, 233-35 (1995).
8. *Id.* at 236-38.
9. E.R. Long et al., *Incidence of Adverse Biological Effects Within Ranges of Chemical Concentrations in Marine and Estuarine Sediments*, 19 **Envnl. Mgmt.** 81, 87-92 (1995).
10. *Id.* at 93-95.
11. C.H. Peterson et al., *Long-Term Ecosystem Response to the Exxon Valdez Oil Spill*, 302 **Science** 2082, 2083-85 (2003).
12. Z. Tian et al., *A Ubiquitous Tire Rubber-Derived Chemical Induces Acute Mortality in Coho Salmon*, 371 **Science** 185, 186-88 (2021).
13. *Id.* at 188-89.
14. E.Y. Zeng et al., *Occurrence and Fate of Tire-Derived Contaminants in Estuarine Environments*, 57 **Envnl. Sci. & Tech.** 2430, 2436-38 (2023).
15. S.W. Nixon, *Coastal Marine Eutrophication: A Definition, Social Causes, and Future Concerns*, 41 **Ophelia** 199, 205-10 (1995).
16. G.F. Birch, *Sediment-Bound Contaminants in Estuaries*, 24 **J. Coastal Res.** 201, 205-09 (2008).
17. J.W. Fleeger et al., *Indirect Effects of Contaminants in Aquatic Ecosystems*, 53 **BioScience** 545, 548-52 (2003).

Table of Authorities (Scientific Sources)

Peer-Reviewed Scientific Literature

- Birch, G.F. *Sediment-Bound Contaminants in Estuaries*, 24 *Journal of Coastal Research* 201 (2008).
- Bryan, G.W. & Langston, W.J. *Bioavailability, Accumulation, and Effects of Heavy Metals in Sediments*, 31 *Marine Pollution Bulletin* 229 (1995).
- Cloern, J.E. *Our Evolving Conceptual Model of the Coastal Eutrophication Problem*, 210 *Marine Ecology Progress Series* 223 (2001).
- Diaz, R.J. & Rosenberg, R. *Spreading Dead Zones and Consequences for Marine Ecosystems*, 321 *Science* 926 (2008).
- Fleeger, J.W. et al. *Indirect Effects of Contaminants in Aquatic Ecosystems*, 53 *BioScience* 545 (2003).
- Kennish, M.J. *Environmental Threats and Environmental Future of Estuaries*, 29 *Environmental Conservation* 78 (2002).
- Long, E.R. et al. *Incidence of Adverse Biological Effects Within Ranges of Chemical Concentrations in Marine and Estuarine Sediments*, 19 *Environmental Management* 81 (1995).
- Peterson, C.H. et al. *Long-Term Ecosystem Response to the Exxon Valdez Oil Spill*, 302 *Science* 2082 (2003).
- Sandahl, J.F. et al. *Copper Exposure Disrupts Olfactory-Mediated Behaviors in Salmonids*, 26 *Environmental Toxicology & Chemistry* 2066 (2007).
- Tian, Z. et al. *A Ubiquitous Tire Rubber-Derived Chemical Induces Acute Mortality in Coho Salmon*, 371 *Science* 185 (2021).
- Zeng, E.Y. et al. *Occurrence and Fate of Tire-Derived Contaminants in Estuarine Environments*, 57 *Environmental Science & Technology* 2430 (2023).

Technical Documentation

- **Contech Engineered Solutions, Modular Wetlands® Performance Summary and Pollutant Removal Data.**

<h2 style="text-align: center;">Appendix I</h2> <h3 style="text-align: center;">Stormwater Pollutants Discharged to Mud Bay Despite MWS Treatment</h3>					
Pollutant	MWS Median Removal Efficiency	What Still Discharges (Median Event)	Accumulation & Fate in Mud Bay Mudflats	Adverse Environmental Impacts	Fish / Wildlife / Human Relevance
Total Nitrogen (TN)	23%	77%	Nitrogen delivered directly to intertidal sediments (often at low tide) accumulates in porewater and organic matter; repeated pulses over time	Eutrophication increased algal growth; organic matter buildup; microbial oxygen demand → hypoxia / anoxia in sediments	Benthic infauna stress/mortality; reduced prey base for fish and birds; fish habitat compression; indirect impacts to herons & eagles
Total Phosphorus (TP)	61%	39%	Co-accumulates with nitrogen in sediments; can become bioavailable under low-oxygen conditions	Accelerates eutrophication; contributes to harmful algal blooms and oxygen depletion	Synergistic nutrient effects magnify benthic and fish impacts
Total Suspended Solids (TSS)	89%	11%	Fine particles settle rapidly in low-energy mudflat environment; also act as contaminant carriers	Sediment smothering; altered substrate; burial of infauna; transport of attached toxics	Reduced benthic productivity → reduced fish and bird foraging success
Total Copper	50%	50%	Copper partitions to sediments and porewater; chronic exposure from repeated inputs	Toxicity to benthic organisms; impairment of aquatic species at low concentrations	Sublethal fish effects; food web impacts
Dissolved Copper	37%	63%	Highly bioavailable fraction persists in water column and porewater, especially during storm pulses	Interferes with fish olfaction, predator avoidance, and behavior	Direct relevance to salmonids; indirect impacts to birds reliant on fish
Total Zinc	66%	34%	Zinc accumulates in sediments; affects recruitment and community structure	Altered benthic community composition; reduced diversity and abundance	Long-term prey-base degradation
Dissolved Zinc	60%	40%	Bioavailable fraction persists in shallow estuarine waters	Chronic toxicity to invertebrates and fish	Indirect impacts to higher trophic levels
Motor Oil / Hydrocarbons	79%	21%	Hydrophobic compounds bind to sediments and organic matter	Toxicity to benthic organisms; PAH-related impacts; chronic contamination	Fish health impacts; food-web transfer; human contact risk
6PPD-Quinone (tire-derived)	NA	100%	Delivered directly to sediments and nearshore waters; no treatment claim	Acute toxicity to salmonids; unknown but plausible benthic & human risks	Fish mortality risk; indirect bird impacts; public recreation exposure
Other Emerging Pollutants (PFAS, PAHs, pesticides, microplastics, pathogens)	NA	100%	Persistent accumulation in sediments and biota	Chronic toxicity; cumulative and synergistic effects	Long-term ecosystem degradation; human exposure pathways

Kathy M Bell

From: Larry Horowitz <dakini1@comcast.net>
Sent: Tuesday, December 30, 2025 3:16 PM
To: Kathy M Bell
Subject: Prerequisite considerations

CAUTION: This message originated from outside of this organization. Please exercise caution with links and attachments.

Kathy,

Regarding the [Prerequisite Considerations \(PC\) for Edgemoor Area 7](#), the last paragraph on p. 8 of the [Staff Report](#) states, "The City previously considered the Proposal's impact to these streets as an element of the SEPA environmental review and determined requiring offsite street improvements would not be proportionate to mitigate the traffic impacts resulting from the Proposal."

Questions:

1) What date did the City determine that the Prerequisite Considerations (PCs) would not be required? (Note: I could not find any reference to these PC's in the SEPA Report.)

2) How can I obtain the documentation regarding this determination?

3) As you know, the current [Edgemoor Plan](#) that contains these PC's was amended in 2004. As of that date, the Woods at Viewcrest parcels were the only undeveloped (and developable) parcels in all of Area 7. Consequently, when the Edgemoor Plan was amended in 2004, these PCs could only apply to development of the Woods at Viewcrest parcel. The city's claim about the traffic impacts is no longer valid now that the city has adopted its Middle Housing (aka "Quadplex") ordinance. Although the Staff Report references the applicant's narrative that indicates the lots are *proposed* for single-family residences, nothing prevents a future owner of any of the proposed 38 lots from constructing a quadplex and/or a sixplex (if two units are affordable). Further, as Chris Behee explained to me, future lot owners will also have the potential to build two DADUs in addition to a quadplex/sixplex. If all 38 lot owners chose this route, the potential traffic impacts could be hundreds of percent greater than if all 38 lots were detached single family residences.

3a) Is it staff's claim that the "detached housing form" use qualifier overrides the city's Middle Housing ordinance and prohibits the construction of a quadplex/sixplex?

3b) Considering the PCs that were included in the 2004 version of the Edgemoor Plan could only pertain to the Woods at Viewcrest parcel, how can the city justify ignoring those PCs when they were clearly retained for the future development of these parcels?

Thanks in advance for your time in addressing these concerns.

Best,
Larry
Landline: 360.746.7154

Date: December 26, 2025

To:
Hearing Examiner's Office
City Hall, 210 Lottie Street,
Bellingham WA 98225
Attn: Sharon Rice, Hearing Examiner

Cc:
Planning & Community Dev. Dept.
City Hall, 210 Lottie Street
Bellingham WA 98225
Attn: Kathy Bell, Senior Planner

Re: Hearing Examiner's Office Case Number: HE-25-PL-027

To avoid a potential “Cease and Desist Order” after construction has started, a careful review of the following is required.

In 2018, “Live Olympia Oyster Spat” were placed in North Chuckanut Bay, a city park which is protected by BMC 8.04.100.A and BMC 8.04.100.D. These city codes prohibit the disposal of “harmful waste materials” in every city park without exception for any type of stormwater contaminant, which tends to create a nuisance, annoys or threatens the health and safety of the public in a city park.

The developer has failed to disclose these ordinances and this fact to the Planning Department. The livestock is owned by the Whatcom County Marine Resources Committee (MRC) and the developer has NOT secured permission to feed these oysters, stormwater containing known and/or unknown pollutants.

In this instant case, the developer has just two options: Spend some money to pump their stormwater to an area outside the boundaries of a city park or spend a lot more money making their stormwater potable before it enters a city park.

For a more careful review, the attached exhibits clarifies a lack of due diligence and a lack of disclosure which needs the Hearing Examiner's attention.

Exhibit “A”; failure to disclose and a failure to comply with Bellingham Municipal Codes BMC 8.04.100.A and BMC 8.04.100.D which prohibits the placement of hazardous materials in every city park.

- Failed to supply a Department of Ecology approved solution for neutralizing a recently discovered stormwater leachate (6PPD-quinone) which has been identified by Ecology as a threat to human health and a threat to aquatic life.

Exhibit “B”; Failure to Disclose:

- Failed to Disclose the Department of Ecology does not have an approved BMP stormwater solution for neutralizing 6PPD-quinone, which Ecology has identified as the 2nd most toxic chemical to aquatic life ever measured.
- Failed to disclose the Department of Health has identified 6PPD and 6PPD-quinone as a nuisance and a threat to Human Health.
- Failed to disclose the Legislature has identified 6PPD as a stormwater contaminant of concern for sensitive population groups and sensitive species.

Exhibit “C”; failed to disclose “**a most likely potential**” for having harmful microbial contaminants in their stormwater.

- Failed to supply a Department of Ecology stormwater solution for neutralizing every harmful microbial stormwater contaminant before it enters a city park.

Exhibit “D”; Failed to Disclose:

- Failed to disclose the existence of livestock (live oysters) in North Chuckanut Bay
- Failed to secure an agreement to feed stormwater with known and unknown pollutants to the MRC’s livestock. (Live Olympia Oysters and their offspring.)

Exhibit “E”; pictures of the MRC, WDFW & the students of Bellingham’s Technical College planting live oyster livestock in North Chuckanut Bay.

Exhibit “F”; failure to disclose: the restoration oysters placed in North Chuckanut Bay are an “**end product**” of a “**federal collaborative agreement**” with the “**Treaty Tribes**” of the Salish Seas. This agreement was centered on restoring self-sustaining beds of native Olympia oysters in Puget Sound **for the benefit of** the feds, the State of Washington and the **Treaty Tribes of the Salish Seas**.

- Failed to disclose the potential consequences of feeding stormwater to an oyster, when an Indian tribe can force the City into pumping a developer’s stormwater to any location where the stormwater will not feed or harm an oyster. In this instant case, an oyster specifically placed in a city park for the purpose of restoring beds of native Olympia oysters to North Chuckanut Bay.

Exhibit “G”; failed to consider the consequences of feeding Olympia oysters with known and unknown stormwater pollutants when WDFW has identified these oysters as a high priority species for WDFW protection and conservation.

For the purpose of clarity:

The developer has not secured a written consent from the MRC to feed stormwater containing known and unknown pollutants to livestock owned by the MRC.

For the purpose of clarity:

The developer has not secured a written consent to increase the quantity of stormwater from the Arbutus stormwater outflow which will feed MRC’s livestock in North Chuckanut Bay.

For the purpose of clarity:

Olympia oysters were placed in North Chuckanut Bay with the full protections of City Municipal Codes BMC 8.04.100.A and BMC 8.04.100.D. These city codes prohibit the disposal of “all harmful waste materials” in every city park without an exception for partially filtered or partially treated stormwater.

Yours truly,

Dean Longwell (Architect – Retired)
621 Linden Road,
Bellingham WA 98225

Exhibit “A”

Re: Hearing Examiner Case Number: HE-25-PL-027

- **Failure to Disclose: The disposal of hazardous stormwater contaminants into a city park.**
- **Failure to Comply with BMC 8.04.100.A and BMC 8.04.100.D**

The proposed Woods at Viewcrest Stormwater Discharge Proposal does NOT filter out or neutralized stormwater contaminant as required by city Municipal Codes BMC 8.04.100.A and BMC. 8.04.100.D. **Please See Exhibit “A” page 2, Exhibit “B” and Exhibit “C”.**

BMC 8.04.100, Litter in Parks	Page 1 of 1
8.04.100 Litter in parks.	
A. No person shall throw or deposit litter on any park property, except in public receptacles and in such a manner that the litter will be prevented from being carried or deposited by the elements upon any part of the park, or upon any street or other public place. Where public receptacles are not provided, all litter shall be carried away and properly disposed of.	
B. No person shall use the parks and recreation department litter receptacles in the following manner:	
1. No person shall damage, deface, abuse, or misuse any litter receptacle so as to interfere with its proper function or detract from its proper appearance.	
2. No person shall deposit leaves, clippings, prunings, or gardening refuse in any litter receptacle.	
3. No person shall deposit household garbage in any litter receptacle; provided, that this subsection shall not be construed to mean that wastes of food consumed on park property may not be deposited in litter receptacles.	
C. Whenever litter dumped in violation of this chapter contains three or more items bearing the name of one individual, there shall be a presumption that the individual whose name appears on such items committed the unlawful act of littering.	
D. For purposes of this section, “litter” means garbage, refuse, rubbish, or any other waste material which, if thrown or deposited as prohibited in this section, tends to create a nuisance which annoys, injures, or endangers the health, safety, or comfort of the public.	

The City has an “all inclusive and stricter than normal” litter control ordinance which is also a “public health ordinance” and a “land use control ordinance”.

The ordinance is “clear and concise” and makes no exceptions for stormwater contaminants when a contaminant is known to be a nuisance or a threat to human health. It is also an ordinance which must be viewed in the light of the whole when a City can have a “public health ordinance” that is more stringent than those provided by another City, the State or the Department of Ecology.

If Bellingham wanted a city ordinance limited to prohibiting bottles, broken glass, ashes, paper, cans or other rubbish in a city park then the city would have adopted an ordinance similar to the ordinance adopted by the City of Everett:

9.06.169.A: It is unlawful to leave, deposit, drop or scatter any bottles, broken glass, ashes, paper, cans or other rubbish, litter or refuse in any city park except in a garbage can or other receptacle designated for such purposes.

Per this regulatory review, it appears the developer has just two options: **Spend some money to pump their stormwater to an area outside the boundaries of a city park or spend a lot more money making their stormwater potable.**

Other Applicable Laws, Ordinances and Codes:

RCW 19.27.095

Building permit application – Consideration – Requirements

(1) A valid and fully complete building permit application for a structure, that is permitted under the zoning or other land use control ordinances in effect on the date of the application shall be considered under the building permit ordinance in effect at the time of application, and the zoning or other land use control ordinances in effect on the date of application.

- Bellingham Municipal Code BMC 8.04.100.A: Prohibits the placement of litter on park property thus the ordinance is a land use control ordinance.

BMC 17.10.020

101.2.1 Exceptions. The provisions of this code shall not apply to work primarily in a public way, public utility towers and poles and hydraulic flood control structures.

The developer cannot use this exception for the following reasons:

- A public way or ROW does not exist until the city fully accepts liability and responsibility for the structures being built for the public’s benefit and a ROW is not a ROW until the easement is properly recorded within the County’s Auditor’s Office.
- A pollution control vault is not a utility tower or pole.
- A pollution control vault is not a hydraulic flood control structure when the vault is not designed to stop flooding.

BMC 17.10.020 Section 102: Applicability

102.1 General. Where in any specific case, different sections of this code specify different materials, methods of construction or other requirements, the most restrictive shall govern except that the hierarchy of the codes named in Chapter 19.27 RCW shall govern. Where there is a conflict between a general requirement and a specific requirement, the specific requirement shall be applicable.

- BMC 8.04.100.A and BMC 8.04.100.D are more restrictive than, Department of Ecology’s stormwater discharge regulations.

Exhibit “B”

Re: Hearing Examiner Office Case Number: HE-25-PL-027

- **Failure to Disclose: A known Human Health Risk**
- **Failure to Disclose: The Department of Ecology does not have a “time tested” BMP stormwater solution that neutralizes the 2nd most toxic stormwater chemical to aquatic life ever measured.**

The following illustrates why enforcement of Bellingham Municipal Codes: BMC 8.04.100.A and BMC 8.04.100.D is prudent and required if a proposed stormwater discharge contains 6PPD or 6PPD-quinone.

1. Snippet from Department of Ecology’s 6PPD Action Plan - Executive Summary:
The road tire leachate “6PPD-quinone” is the 2nd most toxic stormwater chemical to aquatic life ever found”.
2. City of Bellingham’s acknowledgement of the existence of 6PPD-quinone and 6PPD in the city’s stormwater.
3. Snippet, from the Department of Public Health which clarifies the adverse affects of 6PPD and 6PPD-quinone on human health.
4. A copy of Senate Bill 5931 which identified 6PPD as a toxic chemical of concern for sensitive populations and sensitive species.
5. A copy of BMC 8.04.100.A and BMC 8.04.100.D prohibit the disposal of waste materials in a city park without exception for stormwater contaminants which, if deposited in a city park create a nuisance which annoys, injures or endangers the health, safety or comfort of the public in a city park.
6. A drawing which identifies the boundaries of Chuckanut Bay Tide Land City Park and the boundaries of the Woods at Viewcrest development.

Snippets from the Department of Ecology's - 6PPD Action Plan

Re: Stormwater human health risks

Snippet #1

6PPD Action Plan and Alternatives Assessment

Progress Report and Recommendations


Hazardous Waste and Toxics Reduction Program
Washington State Department of Ecology

Olympia, WA

From Page 4 of the Department of Ecology's - 6PPD Action Plan

Snippet #2

Executive Summary

N-(1,3-dimethylbutyl)-N'-phenyl-p-phenylenediamine (6PPD) is an antioxidant and anti-ozone chemical used in motor vehicle tires to prevent tire cracking and promote longevity. It is a human skin sensitizer and reproductive toxicant. In 2020, researchers at Washington State University and the University of Washington discovered that when 6PPD reacts with ozone in the air it leads to the harmful transformation product 6PPD-quinone (6PPDQ). Researchers have identified 6PPDQ as the second most toxic chemical to aquatic life ever measured. It causes rapid mortality to species of cultural and environmental significance like Coho salmon. Researchers have found both chemicals in people.

From Page 6 of the Department of Ecology's - 6PPD Action Plan

- 
- Note to the reviewer:***
The Department of Ecology has identified 6PPD and 6PPD-quinone as hazardous stormwater contaminants which means a more careful review of The Woods at Viewcrest stormwater discharge plan is required.
- 
- Conclusion to the reviewer:***
Due to the above Department of Ecology statements; enforcement of Bellingham Municipal Codes BMC 8.04.100.A and BMC 8.04.100.D is prudent and required if a stormwater discharge into a city park and contains 6PPD-quinone.

Coho is the “Canary in the Creek Bed

DCLongwell

From: Eli J Mackiewicz <emackiewicz@cob.org>
Sent: Monday, May 12, 2025 4:53 PM
To: DCLongwell
Subject: Re: 6PPD-q in Bellingham question

Hi Dean,

Thanks for reaching out. As part of my work as a public servant on behalf of our community, I am the co-chair of the Washington State 6ppd-q Subgroup (6ppd-q is the chemical responsible for coho pre-spawn mortality, which we now call Urban Runoff Mortality Syndrome (URMS)). I could talk all day about the chemical and how it gets into streams, but I'm much less of an expert on the stream themselves. My job is to manage stormwater and to prevent pollution from known sources as much as possible using available technologies and scientific knowledge from ongoing and emerging research. But, that said, here's what I can say...

The phenomenon of URMS, which is evidenced by the presence of dead coho and steelhead in streams prior to spawning, was discovered in Bellingham at the BTC Fish Hatchery at Maritime Heritage Park in the late 1990's/early 2000's. At the same time, these events were occurring in other urbanized streams across the Puget Sound region, but the events that occurred at BTC's hatchery were the first to connect the dots between stormwater runoff (especially the "first flush" fall rainstorm) and the susceptibility of coho to pre-spawn mortality. So, it is safe to say that pre-spawn mortality of coho has occurred in Bellingham.

Outside of hatcheries, however, there is no standardized monitoring of the fish populations as it relates to the presence of URMS in our localized streams. It should be expected that this phenomenon continues to occur and, from what we know from other watersheds, would affect the coho and steelhead in our urbanized streams. Anecdotally, there may be reports of URMS that has been documented by the Department of Fish and Wildlife or the Department of Ecology, but it is not tracked by the City of Bellingham in any way that I'm aware of. Additionally, testing for 6ppd-q is not a standard practice both because 1) it was not a known chemical until it was discovered by University of Washington and Washington State University researchers in 2019/2020 and 2) there was not a standard procedure for detecting the chemical in water samples until 2024 (and only one lab accredited to run this process until 2025).

In short, it is reasonable to assume (and indeed predictive models have shown it is likely) that coho and steelhead in Whatcom County waterways are affected by 6ppd-q, but the source and concentration (and the number of occurrences) is not readily available in the data I have access to.

Let me know if you would like me to connect you with other experts who may be able to shed more light on the specifics of how salmon pre-spawn mortality is tracked and recorded. Or, please send along additional questions about 6ppd-q if you are interested and I can send you the primary literature on the topic. While this is an emerging issue, it has a long backstory and lots of research is currently underway.

Thanks again for reaching out.

Eli Mackiewicz (he/his)
Natural Resources Program Technician III
City of Bellingham Public Works Department

Public Works – Natural Resources: (360) 778 - 7800
Direct 778-7742
emackiewicz@cob.org

Conclusion to the reviewer:

Due to the above Public Work's statement; enforcement of Bellingham Municipal Codes BMC 8.04.100.A and BMC 8.04.100.D is prudent and required if a stormwater discharge into a city park contains 6PPD-quinone.

Urban Stormwater

Stormwater pollution is a problem associated with land utilization and development where the persistence, mobility and toxicity of a non-point source of pollution can be unknown.

6PPD and 6PPD-quinone

6PPD is one of many chemicals added to tires and other rubber products to improve their durability. 6PPD prevents cracks in the rubber, making tires last longer and safer for driving. 6PPD reacts with the air and creates new chemicals called transformation products. One transformation product is called 6PPD-quinone (pronounced “quih-known”) and is most known for being deadly to Coho salmon (*Oncorhynchus kisutch*). We are currently learning how 6PPD and 6PPD-quinone may cause human health effects, and how effects on salmon harm human well being.

Known and Unknown Health Effects of 6PPD

Tire and other rubber product manufacturers have used 6PPD for decades, so we understand more about its human health effects than 6PPD-quinone, which was discovered more recently.

6PPD Skin Allergies



Some people have a skin allergy to 6PPD.

6PPD can cause skin allergies according to studies that looked at workers in rubber manufacturing and other similar jobs. If you're allergic to other chemicals in the same (PPDs) class, there may be a reaction to your exposure to 6PPD.

6PPD Reproductive and Developmental Effects

6PPD may cause risk to human reproduction and development. Studies in female rats show that 6PPD can make giving birth more difficult and other research suggests it may cause reproductive problems for humans. Laboratory tests show that 6PPD may be able to alter the development of the nervous system.



6PPD Liver Effects

New research suggests that 6PPD could be bad for the liver. A study found that people with a common liver condition have more 6PPD in their blood stream than those without it, along with signs of additional liver damage. Lab tests in animals and human cells show liver harm.

Known and Unknown Health Effects of 6PPD-quinone

Most of the research on 6PPD-quinone has been focused on its harmful effects on fish and its presence in the environment. However, as interest in this chemical grows, research looking at 6PPD-quinone in humans and laboratory animals is rapidly emerging.

Overall studies in laboratory animals suggest that 6PPD-quinone may be toxic to people, and some studies have found that 6PPD-quinone is higher in people with certain diseases.

6PPD-quinone Reproductive and Developmental Effects

Researchers have found higher levels of 6PPD-quinone in people with polycystic ovarian syndrome (PCOS) compared to people without PCOS. However, we don't know if 6PPD-quinone causes PCOS. Additional laboratory experiments in human cells, rodents, and roundworms all show 6PPD-quinone can cause reproductive issues in both genders.

6PPD-quinone Liver Effects

Researchers have found high levels of 6PPD-quinone and signs of liver damage in people with liver disease. Long term studies in mice and human liver cells show that 6PPD-quinone can harm the liver. For example, research in mice found that it can cause fat to build up in the liver,

6PPD-quinone Nervous System Effects

Researchers studying people with Parkinson's disease have found higher levels of 6PPD-quinone in the brain and spinal fluid compared to those without the disease. Supporting studies in laboratory rodents show 6PPD-quinone can harm brain cells.

6PPD-quinone Intestinal Effects

Laboratory mice that ate 6PPD-quinone for several weeks had damage to their intestines. 6PPD-quinone weakened their intestinal lining and increased inflammation. Other lab experiments found similar effects, including increased intestinal leakage in roundworms and signs of intestinal damage in Zebra fish.

6PPD-quinone Cancer Effects

We don't currently know if 6PPD-quinone can cause cancer.



Conclusion to the reviewer:

Due to the above Department of Health statements; enforcement of Municipal Codes BMC 8.04.100.A and BMC 8.04.100.D is prudent and required if a stormwater discharge into a city park contains 6PPD-quinone.

With the enactment of Senate Bill SSB 5931, it appears The Woods at Viewcrest stormwater discharge plan requires a review for being out of compliance with Bellingham's Municipal Codes: BMC 8.04.100.A and BMC 8.04.100.D.

SUBSTITUTE SENATE BILL 5931

AS AMENDED BY THE HOUSE

Passed Legislature - 2024 Regular Session

State of Washington 68th Legislature 2024 Regular Session

By Senate Environment, Energy & Technology (originally sponsored by Senators Salomon, Kauffman, Billig, Frame, Lovelett, Pedersen, Shewmake, and Wellman)

READ FIRST TIME 01/29/24.

1 AN ACT Relating to addressing 6PPD in motorized vehicle tires
2 through safer products for Washington; amending RCW 70A.350.010 and
3 70A.350.050; adding a new section to chapter 70A.350 RCW; and
4 creating a new section.

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

6 **NEW SECTION.** **Sec. 1.** (1) The legislature finds that 6PPD is a
7 chemical commonly used in motor vehicle tires to keep them flexible
8 and prevent them from degrading quickly. 6PPD works by moving to the
9 surface of the tire and forming a film that protects the tire. As the
10 film breaks down, it produces 6PPD-quinone. When it rains, tire
11 particles containing 6PPD-quinone are washed into streams, rivers,
12 and other water bodies through stormwater runoff.

13 (2) The legislature also finds that 6PPD-quinone is directly
14 linked to urban runoff mortality syndrome, a condition where Coho
15 salmon die prior to spawning. 6PPD-quinone is known to be toxic to
16 aquatic species and is the primary causal toxicant for Coho salmon.
17 In June 2023, the department of ecology identified 6PPD as a draft
18 priority chemical under safer products for Washington, cycle 2.
19 Additionally, 6PPD has been identified as a hazardous substance under
20 the model toxics control act and as a chemical of concern for
21 sensitive populations and sensitive species.

With the enactment of Senate Bill SSB 5931, it appears The Woods at Viewcrest stormwater discharge plan requires a review for being out of compliance with Bellingham's Municipal Codes: BMC 8.4.100.A and BMC 8.04.100.D.

1 (3) The legislature finds it important to reduce sources and uses
2 of 6PPD in Washington to protect aquatic life, particularly salmon.
3 Since 6PPD is ubiquitous in motorized vehicle tires, the legislature
4 intends to identify 6PPD as a priority chemical and certain motorized
5 vehicle tires containing 6PPD as priority consumer products under
6 safer products for Washington.

7 **Sec. 2.** RCW 70A.350.010 and 2020 c 20 s 1451 are each amended to
8 read as follows:

9 The definitions in this section apply throughout this chapter
10 unless the context clearly requires otherwise.

11 (1) "6PPD" means the chemical compound N-(1,3-dimethylbutyl)-N'-
12 phenyl-p-phenylenediamine.

13 (2) "Consumer product" means any item, including any component
14 parts and packaging, sold for residential or commercial use.

15 ((27)) (3) "Department" means the department of ecology.

16 ((37)) (4) "Director" means the director of the department.

17 ((47)) (5) "Electronic product" includes personal computers,
18 audio and video equipment, calculators, wireless phones, game
19 consoles, and handheld devices incorporating a video screen that are
20 used to access interactive software, and the peripherals associated
21 with such products.

22 ((47)) (6) "Inaccessible electronic component" means a part or
23 component of an electronic product that is located inside and
24 entirely enclosed within another material and is not capable of
25 coming out of the product or being accessed during any reasonably
26 foreseeable use or abuse of the product.

27 ((47)) (7) "Manufacturer" means any person, firm, association,
28 partnership, corporation, governmental entity, organization, or joint
29 venture that produces a product or is an importer or domestic
30 distributor of a product sold or offered for sale in or into the
31 state.

32 ((47)) (8)(a) "Motorized vehicle" means, for purposes of 6PPD as
33 a priority chemical, a motorized vehicle intended for on-highway or
34 off-highway use.

35 (b) "Motorized vehicle" does not include, for purposes of 6PPD as
36 a priority chemical, the tires equipped on the vehicle nor tires sold
37 separately for replacement purposes.

38 (9) "Organohalogen" means a class of chemicals that includes any
39 chemical containing one or more halogen elements bonded to carbon.

With the enactment of Senate Bill SSB 5931, it appears The Woods at Viewcrest stormwater discharge plan requires a review for being out of compliance with Bellingham's Municipal Codes: BMC 8.04.100.A and BMC 8.04.100.D.

1 ((+8+)) (10) "Perfluoroalkyl and polyfluoroalkyl substances" or
2 "PFAS chemicals" means a class of fluorinated organic chemicals
3 containing at least one fully fluorinated carbon atom.
4 ((+9+)) (11) "Phenolic compounds" means alkylphenol ethoxylates
5 and bisphenols.
6 ((+10+)) (12) "Phthalates" means synthetic chemical esters of
7 phthalic acid.
8 ((+11+)) (13) "Polychlorinated biphenyls" or "PCBs" means
9 chemical forms that consist of two benzene rings joined together and
10 containing one to ten chlorine atoms attached to the benzene rings.
11 ((+12+)) (14) "Priority chemical" means a chemical or chemical
12 class used as, used in, or put in a consumer product including:
13 (a) Perfluoroalkyl and polyfluoroalkyl substances;
14 (b) Phthalates;
15 (c) Organohalogen flame retardants;
16 (d) Flame retardants, as identified by the department under
17 chapter 70A.430 RCW;
18 (e) Phenolic compounds;
19 (f) Polychlorinated biphenyls; ((+e+))
20 (g) 6PPD; or
21 (h) A chemical identified by the department as a priority
22 chemical under RCW 70A.350.020.
23 ((+13+)) (15) "Safer alternative" means an alternative that is
24 less hazardous to humans or the environment than the existing
25 chemical or chemical process. A safer alternative to a particular
26 chemical may include a chemical substitute or a change in materials
27 or design that eliminates the need for a chemical alternative.
28 ((+14+)) (16) "Sensitive population" means a category of people
29 that is identified by the department that may be or is
30 disproportionately or more severely affected by priority chemicals,
31 such as:
32 (a) Men and women of childbearing age;
33 (b) Infants and children;
34 (c) Pregnant women;
35 (d) Communities that are highly impacted by toxic chemicals;
36 (e) Persons with occupational exposure; and
37 (f) The elderly.
38 ((+15+)) (17) "Sensitive species" means a species or grouping of
39 animals that is identified by the department that may be or is

With the enactment of Senate Bill SSB 5931, it appears The Woods at Viewcrest stormwater discharge plan requires a review for being out of compliance with Bellingham's Municipal Codes: BMC 8.04.100.A and BMC 8.04.100.D.

1 1 disproportionately or more severely affected by priority chemicals,
2 2 such as:
3 3 (a) Southern resident killer whales;
4 4 (b) Salmon; and
5 5 (c) Forage fish.

6 6 **Sec. 3.** RCW 70A.350.050 and 2022 c 264 s 2 are each amended to
7 7 read as follows:
8 8 (1)(a) By June 1, 2020, and consistent with RCW 70A.350.030, the
9 9 department shall identify priority consumer products that are a
10 10 significant source of or use of priority chemicals specified in RCW
11 11 70A.350.010((+12)) (14) (a) through (f).
12 12 (b) By June 1, 2022, and consistent with RCW 70A.350.040, the
13 13 department must determine regulatory actions regarding the priority
14 14 chemicals and priority consumer products identified in (a) of this
15 15 subsection. The deadline of June 1, 2022, does not apply to the
16 16 priority consumer products identified in RCW 70A.350.090.
17 17 (c) By June 1, 2023, the department must adopt rules to implement
18 18 regulatory actions determined under (b) of this subsection.
19 19 (2)(a) By June 1, 2024, and every five years thereafter, the
20 20 department shall select at least five priority chemicals specified in
21 21 RCW 70A.350.010((+12)) (14) (a) through ((+9+)) (h) that are
22 22 identified consistent with RCW 70A.350.020.
23 23 (b) By June 1, 2025, and every five years thereafter, the
24 24 department must identify priority consumer products that contain any
25 25 new priority chemicals after notifying the appropriate committees of
26 26 the legislature, consistent with RCW 70A.350.030.
27 27 (c) By June 1, 2027, and every five years thereafter, the
28 28 department must determine regulatory actions for any priority
29 29 chemicals in priority consumer products identified under (b) of this
30 30 subsection, consistent with RCW 70A.350.040.
31 31 (d) By June 1, 2028, and every five years thereafter, the
32 32 department must adopt rules to implement regulatory actions
33 33 identified under (c) of this subsection.
34 34 (3)(a) The designation of priority chemicals by the department
35 35 does not take effect until the adjournment of the regular legislative
36 36 session immediately following the identification of chemicals, in
37 37 order to allow an opportunity for the legislature to add to, limit,
38 38 or otherwise amend the list of priority chemicals to be considered by
39 39 the department.

With the enactment of Senate Bill SSB 5931, it appears The Woods at Viewcrest stormwater discharge plan requires a review for being out of compliance with Bellingham's Municipal Codes: BMC 8.04.100.A and BMC 8.04.100.D.

1 (b) The designation of priority consumer products by the
2 department does not take effect until the adjournment of the regular
3 legislative session immediately following the identification of
4 priority consumer products, in order to allow an opportunity for the
5 legislature to add to, limit, or otherwise amend the list of priority
6 consumer products to be considered by the department.

7 (c) The determination of regulatory actions by the department
8 does not take effect until the adjournment of the regular legislative
9 session immediately following the determination by the department, in
10 order to allow an opportunity for the legislature to add to, limit,
11 or otherwise amend the regulatory determinations by the department.

12 (d) Nothing in this subsection (3) limits the authority of the
13 department to:

14 (i) Begin to identify priority consumer products for a priority
15 chemical prior to the effective date of the designation of a priority
16 chemical;

17 (ii) Begin to consider possible regulatory actions prior to the
18 effective date of the designation of a priority consumer product; or

19 (iii) Initiate a rule-making process prior to the effective date
20 of a determination of a regulatory action.

21 (4)(a) When identifying priority chemicals and priority consumer
22 products under this chapter, the department must notify the public of
23 the selection, including the identification of the peer-reviewed
24 science and other sources of information that the department relied
25 upon, the basis for the selection, and a draft schedule for making
26 determinations. The notice must be published in the Washington State
27 Register. The department shall provide the public with an opportunity
28 for review and comment on the regulatory determinations.

29 (b)(i) By June 1, 2020, the department must create a stakeholder
30 advisory process to provide expertise, input, and a review of the
31 department's rationale for identifying priority chemicals and
32 priority consumer products and proposed regulatory determinations.
33 The input received from a stakeholder process must be considered and
34 addressed when adopting rules.

35 (ii) The stakeholder process must include, but is not limited to,
36 representatives from: Large and small business sectors; community,
37 environmental, and public health advocacy groups; local governments;
38 affected and interested businesses; an expert in scientific data
39 analysis; and public health agencies.

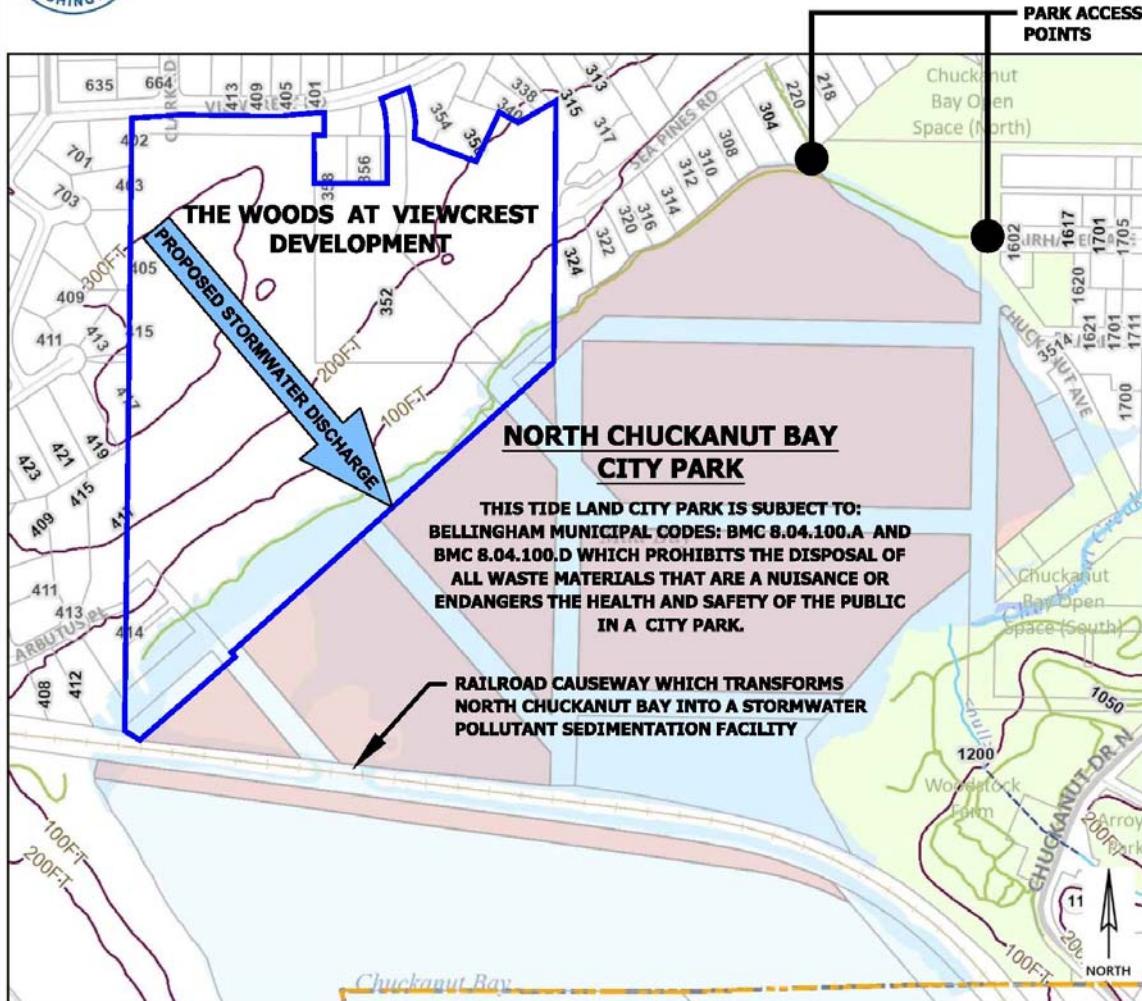
With the enactment of Senate Bill SSB 5931, it appears The Woods at Viewcrest stormwater discharge plan requires a review for being out of compliance with Bellingham's Municipal Codes: BMC 8.04.100.A and BMC 8.04.100.D.

1 NEW SECTION. **Sec. 4.** A new section is added to chapter 70A.350
2 RCW to read as follows:
3 For the purposes of the regulatory process established in this
4 chapter, a motorized vehicle tire containing 6PPD that is equipped on
5 or intended to be installed as a replacement tire on a motorized
6 vehicle for on-highway use is a priority consumer product. For these
7 priority products, the department must determine regulatory actions
8 and adopt rules to implement those regulatory determinations
9 consistent with the process established in RCW 70A.350.040 and
10 70A.350.050. In determining regulatory actions under this section,
11 the department must specifically consider the effect of the
12 regulatory actions on driver and passenger safety.

--- END ---



Land Parcel Report for 370213151409



Assessor Property Info

Property ID:	19686
Assessor address:	
Owner name:	CITY OF BELLINGHAM FINANCE DEPT
Land use:	SALTWTR TIDE

Appraised Property Value

Land value:	\$54,040
Improvement value:	\$0
Total value:	\$54,040

Conclusion to the reviewer:

It appears enforcement of Bellingham Municipal Codes BMC 8.04.100.A and BMC 8.04.100.D is prudent and required if a stormwater discharge into North Chuckanut Bay contains 6PPD-quinone.

Exhibit “C”

Note to the Reviewer: The proposed Woods at Viewcrest Stormwater Discharge System does NOT comply with Bellingham Municipal Codes: BMC 8.04.100.A and BMC .8.04.100.D for stopping or neutralizing hazardous stormwater chemicals and/or microbial contaminants

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Review

A review on microbial contaminants in stormwater runoff and outfalls: Potential health risks and mitigation strategies



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HIGHLIGHTS

- Stormwater has been considered as an alternative water source.
- Microbial contamination hinders stormwater reuse.
- WSUD is effective in removing pathogens but requires more validation.
- QMRA analysis can facilitate decision making and risk management efforts.

GRAPHICAL ABSTRACT



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ABSTRACT

Demands on global water supplies are increasing in response to the need to provide more food, water, and energy for a rapidly growing population. These water stressors are exacerbated by climate change, as well as the growth and urbanisation of industry and commerce. Consequently, urban water authorities around the globe are exploring alternative water sources to meet ever-increasing demands. These alternative sources are primarily treated sewage, stormwater, and groundwater. Stormwater including roof-harvested rainwater has been considered as an alternative water source for both potable and non-potable uses. One of the most significant issues concerning alternative water reuse is the public health risk associated with chemical and microbial contaminants. Several studies to date have quantified fecal indicators and pathogens in stormwater. Microbial source tracking (MST) approaches have also been used to determine the sources of fecal contamination in stormwater and receiving waters. This review paper summarizes occurrence and concentrations of fecal indicators, pathogens, and MST marker genes in urban stormwater. A section of the review highlights the removal of fecal indicators and pathogens through water sensitive urban design (WSUD) or Best Management Practices (BMPs). We also discuss approaches for assessing and mitigating health risks associated with stormwater, including a summary of existing quantitative microbial risk assessment (QMRA) models for potable and non-potable reuse of stormwater. Finally, the most critical research gaps are identified for formulating risk management strategies.

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¹ Contributed equally to this review.

Downloaded from the National Institute of Health; a U. S. Government Website

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1. Introduction

Water authorities worldwide are exploring alternative water sources to meet ever-increasing demands for potable and non-potable water due to the adverse impacts of climate change on water supplies. Stormwater has been considered as an alternative water source for both potable (drinking) and non-potable uses (gardening, landscaping, and irrigation) (McArdle et al., 2011; Page et al., 2014c; Page et al., 2015). There are several advantages to using stormwater, including (i) reducing demands on the urban potable water supply (ii) diversification of water supplies (iii) reducing discharge of untreated urban stormwater to urban streams and marine outfalls. Despite these advantages, stormwater has not been widely adopted as an alternative water due to a perceived lack of information on the presence and risk from microbial and chemical contaminants.

The chemical quality of stormwater has been reviewed and indicated the presence of numerous contaminants including heavy metals, polychlorinated biphenyls, polycyclic aromatic hydrocarbons, halogenated aliphatics, halogenated ethers, monocyclic aromatics, phenols and cresols, phthalate esters, nitrosamines, pesticides, and other organics, especially in urban and/or industrialized areas (Makepeace et al., 1995; Eriksson et al., 2005; Baun et al., 2006; Huber et al., 2016). Risk assessments of chemical contaminants in stormwater have suggested that in some cases, contaminants may exceed concentrations in the environment that are relevant for ecological endpoints, but may be lesser contributors to human health risks (Eriksson et al., 2005; Baun et al., 2006; Eriksson et al., 2007). Non-carcinogenic risks due to ingestion of fish in stormwater-contaminated waterbodies have been identified as a potential concern (Bickford et al., 1999). Iron levels exceeding Australian guidelines and elevated (but below guideline) levels of Arsenic have also been identified as potential risks for managed aquifer recharge with stormwater, with overall chemical risks from various compounds posited to be low (Page et al., 2010a, 2010b). Heavy metals and pathogens are thought to be the drivers of human health risks for exposure to stormwater (Page et al., 2010a, 2010b, 2010c, 2010d; Chong et al., 2013; Ma et al., 2016). Indeed, public perception of microbial risks, in particular, remains a crucial barrier to the expansion of water recycling and reuse (Higgins et al., 2002). Therefore, the current review will focus on microbiological contaminants in stormwater and their associated risks.

Pathogenic bacteria, viruses and protozoa can be found in stormwater runoff and subsequently transported to environmental water bodies through sewer overflows, defective septic systems, agricultural runoff, defecation from wild animals and discharge of treated sewage (Ahmed et al., 2005; Noble et al., 2006; Rajal et al., 2007). The pathogens present in various animal fecal sources will differ from those in sewage (Schoen and Ashbolt, 2010; Soller et al., 2015; Federigi et al., 2019), and therefore stormwater is likely to contain a different pathogen profile than sewage. Studies have reported a high prevalence of fecal indicator bacteria (FIB) and enteric pathogens in stormwater (Noble et al., 2006; Rajal et al., 2007; AWQC, 2008; Sidhu

et al., 2012a; Cizek et al., 2008). The microbial quality of water is assessed by FIB such as *Escherichia coli* (*E. coli*) and *Enterococcus* spp. (USEPA, 2000). These indicators are abundant in the intestine of warm-blooded animals, and their presence in waters indicates fecal contamination and the likely presence of potential pathogens.

One major limitation of FIB is their poor correlation with the presence of pathogens, especially protozoans and enteric viruses (Hörman et al., 2004; Selvakumar and Borst, 2006; McQuaig et al., 2009). Another limitation of FIB is that they cannot provide information regarding the sources of fecal contamination (Field and Samadpour, 2007; Stoeckel and Harwood, 2007). Remediation strategies can be more effectively implemented if the potential sources of fecal contamination and pathogens are known in stormwater (Sidhu et al., 2012b). Since the monitoring of FIB in water does not provide information on origin, e.g., human or animal feces, researchers have developed a set of analytical tools collectively known as "microbial source tracking (MST) tools." These tools can be used to obtain information on whether the fecal contamination in water came from human or animal wastewater or both (Harwood et al., 2014).

Epidemiological studies indicated that the risks of gastrointestinal illness (GI) among swimmers can be high when the water is contaminated with untreated sewage, as presumably indicated by the presence of elevated levels of FIB (Cabelli et al., 1982; Wade et al., 2006; Marion et al., 2010). However, mixed sources of fecal contamination (human and animal feces) are often expected to be found in stormwater. Epidemiological data are lacking regarding the human health impacts from mixed source of fecal contamination, which may pose different human health risks.

Several studies in the research literature have provided quantitative data on potential pathogens in roof-harvested rainwater stored in tanks (Ahmed et al., 2008a; Ahmed et al., 2014a; Dobrowsky et al., 2014). However, pathogen abundance data in stormwater runoff and outfalls are still scarce. Therefore, the objective of this review is to summarize the concentrations of traditional and alternative fecal indicators, MST marker genes and potential pathogens in stormwater runoff and outfalls. A section of this review has been dedicated to summarizing available quantitative microbial risk assessments (QMRA) for potable and non-potable uses of stormwater. The focus for reviewing available QMRA models is to summarize the types of assumptions used to model pathogen fate, transport, and exposure in order to identify data gaps and areas where further attention is warranted. Additionally, a review of fecal indicators and pathogen log removal values (LRVs) through Water Sensitive Urban Design (WSUD) or Best Management Practices (BMPs) of stormwater runoff has been compiled. Finally, risk mitigation approaches and the most critical research gaps are identified concerning the public health aspects of stormwater reuse.

Peer-reviewed journal articles, reports, conference proceedings, and guidelines published from 2005 to 2018 were taken into consideration. Electronic databases including PubMed, Google Scholar, and Web of Knowledge were used to obtain the information. The literature search

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samples during storm events compared to low flow periods ($3.53 \log_{10}$ GC/100 mL of HB and $3.71 \log_{10}$ GC/100 mL of Lachno2). A further increase in the order of a magnitude of marker genes was observed during the combined sewer overflow (CSO) event compared to storm events. The marker gene contamination level was high enough to exceed acceptable GI risk benchmark of 32 to 36 per 1000 primary contact recreators in rivers or swimming at nearby beaches (USEPA, 2012a).

Staley et al. (2016) quantified *Bacteroides* HF183 in storm water outfalls and several sites along the Humber River in Toronto, Canada. HF183 was detected at all sites, with greater concentrations in outfall samples (mean outfall concentrations of $6.22 \log_{10}$ GC/L). Their results indicated ubiquitous sewage contamination at storm water outfalls and throughout the Humber River. Steele et al. (2018) used digital PCR to quantify

the HF183 marker gene in samples collected from multiple storm events from San Diego River ($n = 23$) and Tourmaline Creek ($n = 21$) that discharge to popular surf beaches in San Diego, CA, USA. The authors noted $6.45\text{--}6.95 \log_{10}$ GC HF183/L in stormwater discharges from Tourmaline Creek and $5.30\text{--}6.24 \log_{10}$ GC/100 mL in stormwater discharges from the San Diego River. The HF183 marker was consistently detected with human pathogen NoV (96% positive agreement in San Diego River and 72% positive agreement in Tourmaline Creek).

Ahmed et al., 2018c examined the extent of sewage contamination in an urban recreational lake located in Sydney, Australia that receives wet weather overflows using two human feces-associated crAssphage marker genes (CPQ_056 and CPQ_064). The concentrations of both markers were higher (CPQ_056 ranging from 3.40 to $7.62 \log_{10}$ GC/L

Table 1
Prevalence and concentrations (\log_{10} GC/L) of sewage and animal-associated marker genes in stormwater runoff and outfall samples.

Marker genes (host)	Country	Number of samples tested (% occurrence)	Mean/median \pm SD (range) in positive samples* (\log_{10} GC/L)	References
HF183 (human)	Qld, Australia	7 (57)	–	Ahmed et al., 2007
HF183 (human)	Qld, Australia	10 (40)	–	Ahmed et al., 2008b
HF183 (human)	Qld, Australia	11 (54.5)	–	Ahmed et al., 2012
HF183 (human)	Tampa, USA	12 (58.3)	$3.79^a \pm 0.33$ (3.38–4.21)	Ahmed et al., 2018a
HF183 (human)	Virginia, USA	130 (100)	$4.00^a\text{--}5.47^b$	Liao et al., 2015
HF183 (human)	Philadelphia, USA	14 (100)	3.50^b (0.11–6.91)	McGinnis et al., 2018
HF183 (human)	North Carolina, USA	37 (13.5)	$4.05^a > 4.69$	Parker et al., 2010
HF183 (human)	Boston, USA	18 (94.4)	$6.23^a \pm 1.01$ (3.50–7.50)	Paar 3rd et al., 2015
HF183 (human)	California, USA	14 (43)	$5.27^a \pm 1.43$ (3.59–7.17)	Sercu et al., 2011
HF183 (human)	Qld, Australia	12 (92)	–	Sidhu et al., 2012a, 2012b
HF183 (human)	Qld, NSW, Victoria, Australia	23 (96)	–	Sidhu et al., 2013
HF183 (human)	Ontario, Canada	NM	(2.73–4.17)	Staley et al., 2015
HF183 (human)	Toronto, Canada	59 (69.5)	4.22^a (2.55–8.65)	Staley et al., 2016
HF183 (human)	California, USA	44 (97.7)	3.49 ± 0.69^a (2.30–5.09)	Steele et al., 2018
HF183 (human)	California, USA	26 (27)	4.69 ± 1.69^a (2.61–7.17)	van De Werfhorst et al., 2014
HF134 (human)	Qld, Australia	7 (71)	–	Ahmed et al., 2007
HF134 (human)	Qld, Australia	10 (70)	–	Ahmed et al., 2008b
BacHum-UCD (human)	California, USA	14 (92.9)	$5.47^a \pm 5.83$	Bambic et al., 2015
HF183, BacHum-UCD (human)	Milwaukee, USA	828 (57)	$3.51^a\text{--}6.61^b$	Sauer et al., 2011
HuBac (human)	North Carolina, USA	45 (100)	$4.82^a \pm 6.89^b$	Gentry-Shields et al., 2012
nifH (human)	Australia	11 (18.2)	–	Ahmed et al., 2012
nifH (human)	North Carolina, USA	45 (31.1)	$1.23^a \pm 4.11^b$	Gentry-Shields et al., 2012
nifH (human)	California, USA	14 (43)	–	Sercu et al., 2011
nifH (human)	Qld, NSW, Victoria, Australia	23 (43)	–	Sidhu et al., 2013
nifH (human)	California, USA	26 (19.2)	–	van De Werfhorst et al., 2014
Enterococcus surface protein (esp) (human)	Qld, Australia	7 (71)	–	Ahmed et al., 2007
Enterococcus surface protein (esp) (human)	Qld, Australia	11 (18)	–	Ahmed et al., 2012
Enterococcus surface protein (esp) (human)	Qld, Australia	12 (58)	–	Sidhu et al., 2012a, 2012b
Lachno2 (human)	Milwaukee, USA	NM	$4.98^a \pm 1.71$ (4.27–6.43)	Olds et al., 2018
Lachno2 (human)	Milwaukee, USA	10 (70)	$4.94^a \pm 1.02$ (3.50–6.73)	Feng et al., 2018
Lachno2 (human)	Milwaukee, USA	10 (90)	$3.56^a \pm 0.78$ (3.12–5.60)	Feng et al., 2018
Lachno3 (human)	Milwaukee, USA	10 (70)	$3.85^a \pm 1.20$ (2.65–6.23)	Feng et al., 2018
Human <i>Bacteroides</i> (human)	Milwaukee, USA	10 (60)	$4.21^a \pm 0.52$ (3.35–4.93)	Feng et al., 2018
Human <i>Bacteroides</i> (human)	Milwaukee, USA	NM	$4.78^a \pm 0.45$ (4.25–5.74)	Olds et al., 2018
HPyV (human)	Qld, Australia	11 (18.2)	–	Ahmed et al., 2012
HPyV (human)	Philadelphia, USA	14 (28.6)	(0.27–1.29)	McGinnis et al., 2018
HPyV (human)	Australia	12 (41.6)	–	Sidhu et al., 2012a, 2012b
HPyV (human)	Qld, NSW, Victoria, Australia	23 (52)	–	Sidhu et al., 2013
CrAssphage CPQ_056 (human)	Tampa, USA	12 (41.6)	$4.19^a \pm 0.52$ (3.62–4.91)	Ahmed et al., 2018a
CrAssphage CPQ_064 (human)	NSW, Australia	20 (100)	$4.55^a \pm 0.89$ (3.40–6.03)	Ahmed et al., 2018c
CrAssphage CPQ_064 (human)	NSW, Australia	20 (90)	$4.15^a \pm 0.77$ (3.13–5.47)	Ahmed et al., 2018c
PMMoV (human)	Philadelphia, USA	14 (100)	2.99^a (1.34–4.62)	McGinnis et al., 2018
BacCow (cow)	California, USA	15 (86.7)	$4.75^a \pm 5.17$	Bambic et al., 2015
BacCan (dog)	USA	15 (100)	$4.67^a \pm 4.74$	Bambic et al., 2015
DG37 (dog)	Toronto, Canada	59 (16.9)	–	Staley et al., 2016
DG3 (dog)	California, USA	44 (70.4)	$2.44^a \pm 0.47$ (1.53–3.57)	Steele et al., 2018
DogBact (dog)	Milwaukee, USA	10 (40)	$4.43^a \pm 0.79$ (3.61–5.28)	Feng et al., 2018
Gull4 (seagull)	Toronto, Canada	59 (37.3)	(2.15–4.52)	Staley et al., 2016
LeeSeagull (seagull)	California, USA	44 (93.2)	$3.42^a \pm 0.62$ (1.80–4.47)	Steele et al., 2018

*: Quantitative data were not provided; NM: Not mentioned; ^a: where available; ^b = mean (overall mean concentrations were calculated by authors from the available data); ^b = median.

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and CPQ_064 ranging from 2.90 to 6.95 \log_{10} GC/L in 20 of 20 (for CPQ_056) and 18 of 20 (for CPQ_064) samples collected after storm events compared to a dry weather event (10 of 10 samples were qPCR negative for the CPQ_056 and 8 of 10 were negative for the CPQ_064 marker genes) suggesting that sewage contamination was transported by urban stormwater runoff to the studied lake.

In addition to human-feces associated bacterial markers, viruses such as HAdV species A-F and HPyV (urine indicator) have been used to detect human fecal contamination in stormwater runoff (Brownell et al., 2007; Ahmed et al., 2012; Sidhu et al., 2013). However, none of these studies provided the concentrations of these viruses in stormwater samples. Quantifying viral markers in stormwater samples can be difficult due to factors such as their low numbers in sewage, dilution and loss due to recovery and DNA extraction (Horswell et al., 2010; Wong et al., 2012).

Compared to human feces-associated markers, less information is available on the prevalence and concentrations of animal feces-associated marker genes. Staley et al. (2016) determined the concentrations of seagull-associated Gull4 marker gene in a river and stormwater outfall samples in Ontario, Canada. River sites were frequently (5 of 7 sites where gull fecal contamination was detected) impacted by gull fecal contamination. Two of five storm outfalls were also positive for gull feces. Bambic et al. (2015) reported the moderate occurrence of cattle and dog markers in stormwater samples ranging from 4.67 and 4.75 \log_{10} GC/L. Storm events led to an increase (4.67 and 4.75 \log_{10} GC/L) in cattle and dog feces-associated *Bacteroides* marker genes compared to dry events (3.23 and 3.20 \log_{10} GC/L).

Corsi et al. (2014) tested 63 samples over a 17-month period across the three sampling locations in Milwaukee River, WI, USA for human and bovine viruses. Twenty samples were collected during low-flow periods and 43 were collected during rainfall or snowmelt runoff periods. Three of the seven bovine viruses analyzed were detected during the study period. Bovine polyomavirus was present most often (32%) followed by bovine rotavirus group A (19%), and bovine viral diarrhea virus type 1 (5%). Bovine viruses were present in 46% of runoff samples resulting from precipitation and snowmelt and 14% of low-flow samples. Maximum concentrations for these three viruses ranged from 6.7 to 11 GC/L. Bovine viral diarrhea virus type 2, coronavirus, enterovirus, and adenovirus were not detected. The results suggested the presence of bovine fecal contamination in stormwater runoff. This is particularly important because a recent study reported the high risks of gastrointestinal illness from cattle feces contaminated water due to protozoan pathogens *Cryptosporidium* and *Giardia* spp. (Soller et al., 2010).

Fecal contamination in stormwater originate from point and non-point sources, and this is supported by the fact that a number of stormwater outfall samples had high FIB with low or no human *Bacteroides*, suggesting that FIB may have originated from non-human sources (Sauer et al., 2011). Therefore, markers targeting different animal species of zoonotic pathogen potential need to be employed to obtain more information on the magnitude of animal fecal contamination in addition to sewage contamination.

Most of the stormwater studies provided MST results in the presence/absence form. The presence/absence results of any given marker in a sample should be interpreted with care. Mere presence of a marker does not represent any risk as the marker concentrations are generally greater in sewage or animal feces compared to pathogens. In contrast, lack of detection of a marker does not necessarily indicate the sample is free from other contaminants and safe for human exposure. Multiple lines of evidence (i.e., a toolbox approach) are required before implementing remediation or assessing human health risk (Ahmed et al., 2012; Mauffret et al., 2012).

4. Pathogens in stormwater

Increased urbanisation will increase the dissemination of water-borne pathogens in the environments (Hofstra, 2011). Information on

the concentrations of pathogens in stormwater is needed for risk assessment and management for beneficial reuse. However, the data on the occurrence and levels of pathogens in stormwater runoff is limited. This is because collecting stormwater samples during storm events can be challenging. Grab samples are easy to collect, and the cost associated with sampling is low, but only represent a snapshot of the water quality at the time of collection (Harmel et al., 2010). Automated samples are more accurate and appropriate for stormwater sampling as they collect representative samples. However, it has to be installed at a specific location, requiring construction of infrastructure and regular maintenance. Other factors such as the presence of high concentrations of suspended solids, grease and PCR inhibitors make it difficult to detect pathogens with molecular based methods (USEPA, 1999; Stenstrom et al., 1984; Rajal et al., 2007).

Table 2 shows the occurrence and concentrations (where available) of bacterial, protozoa, and viral pathogens in stormwater. Sidhu et al. (2012a) investigated the presence of human pathogens in the urban stormwater runoff in Australia. HAdV was frequently detected from all sampling sites during wet weather conditions suggesting their widespread presence. *Campylobacter jejuni*, *Campylobacter coli*, and *Salmonella enterica* were also detected during wet weather conditions. Based on the results, the authors suggested that some degree of treatment of captured stormwater would be required if it were to be used for non-potable purposes. However, the authors did not mention LRVs that would be required for the safe use of stormwater.

Corsi et al. (2014) studied the prevalence, as well as hydrological and seasonal variations of enteric viruses in an urban watershed, a rural sub watershed and the Milwaukee River mouth, WI, USA. The authors processed large volumes of water samples (56–2800 L) over a 17 months duration to account for variability throughout changing hydrologic and extended (24-h) low-flow periods. Human and bovine viruses were detected in 49 and 41% of samples ($n = 63$), respectively. All human viruses analyzed were detected at least once including HAdV (40% of samples), norovirus (NoV) GI (10%), enterovirus (EV) (8%), rotavirus (RoV) (6%), NoV GII (1.6%) and hepatitis A virus (HAV) (1.6%). Human viruses were present in 63% of runoff samples resulting from precipitation and snowmelt, and 20% of low-flow samples. Maximum human virus concentrations were $>2.47 \log_{10}$ GC/L.

Steele et al. (2018) used digital qPCR to quantify a number of bacterial and viral pathogens in stormwater samples from multiple storm events from two different watersheds that discharge to popular surf beaches in San Diego, CA, USA. This is the most comprehensive study reviewed that determined the concentrations of several human health significant pathogens in stormwater discharges in the USA. Among the enteric viruses tested, NoV were highly prevalent in both the San Diego River and Tourmaline Creek with concentration ranging from 1.39 to 2.69 \log_{10} GC/100 mL of water. The prevalence of HAdV were much lower than NoV; 9% of the samples in Tourmaline creek and 22% of the samples in San Diego River were positive for HAdV with concentration ranging from 1.14 to 1.61 \log_{10} HAdV GC/100 mL of water. Enterovirus was not detected in any of the water samples tested. Among the two bacterial pathogens (*Campylobacter* spp., and *Salmonella* spp.), *Campylobacter* spp. was the most commonly detected pathogens (100 and 45% samples were positive at San Diego River and Tourmaline Creek, respectively compared to 25 and 10% samples were positive for *Salmonella* spp. at San Diego River and Tourmaline Creek, respectively. *C. coli* (87%) and *C. lari* (78%) were the most frequently detected species in stormwater discharges from San Diego River, while *C. lari* (48%) and *C. jejuni* (29%) were the most commonly detected in Tourmaline Creek. The authors stated that such data is an important step forward for assessing risk associated with stormwater.

Data generated using qPCR need to be interpreted carefully because qPCR assays quantify both viable and dead pathogens and do not provide information on the infectivity status of the pathogen tested. Also, complex water matrix such as stormwater generally contain various organic substances, salts, acid and detergents which may inhibit PCR

was performed using the keywords “(stormwater OR sensitive urban design OR WSUD OR green infrastructure OR low impact development OR Low impact urban design and development) AND (pathogen OR microb- OR bacter- OR protozoa OR source tracking OR MST OR fecal indicator OR fecal contamination OR health risk OR QMRA) and included studies that are reported in English.

2. Fecal indicators

Routine monitoring of stormwater quality focuses on quantification of *E. coli* and *Enterococcus* spp. High concentrations ($>4 \log_{10}$ CFU/100 mL) of FIB are generally found in stormwater runoff and receiving waters (Jiang et al., 2015). Most of the stormwater or outfall samples often exceed the sample threshold value of FIB for the designated recreational use of waters by one or more orders of magnitude. For example, if we consider the 95th percentile value for *Enterococcus* spp./100 mL water, many stormwater samples will exceed the threshold value classified as Class D (i.e., >501 CFU/100 mL) by the National Health & Medical Research Council (NHMRC) Guidelines for Recreational Use of Water (NHMRC, 2008). The NHMRC used information from WHO (2003) and Kay et al. (2004) to estimate that in Class D there would be greater than 10% chance of illness per single exposure.

Storm events have the potential to resuspend sediment-bound FIB and pathogens back into water column resulting in elevated contamination levels (An et al., 2002; Cizek et al., 2008; Krometis et al., 2010; Sidhu et al., 2012a). The elevated FIB concentrations generally occur at or just before the peak inflow of the storm hydrograph. Stumpf et al. (2010) determined the loading of FIB over dry and wet weather conditions in tidal creeks in North Carolina, USA. The authors reported 30 and 37 times greater loadings of *E. coli* and *Enterococcus* spp. in storm flow compared to base flow. *E. coli* and *Enterococcus* spp. were weakly correlated ($r^2 = 0.13$ to 0.32) with total suspended solids, while strong associations ($r^2 = 0.40$ to 0.78) were observed between FIB and streamflow rate and various stages (base, rising, peak and falling) of the hydrograph. The authors also noted a large intra-storm variability in FIB concentrations and recommended intensive sampling throughout a storm in order to accurately quantify FIB rather than collecting a single grab sample.

Rural or high density residential areas are reported to contribute 30–50 times greater *E. coli* levels in stormwater compared to light or sparsely populated residential area (McCarthy et al., 2006). Paule-Mercado et al. (2016) investigated the variability of FIB concentrations in agricultural, mixed land use and urban catchments with variable catchment area, land use, and land cover. The urban site had the greatest level (*E. coli* $7.39 \log_{10}$ MPN/100 mL; fecal streptococci $7.21 \log_{10}$ CFU/100 mL) of FIB concentrations compared to agricultural site (*E. coli* $2.51 \log_{10}$ MPN/100 mL; fecal streptococci $2.48 \log_{10}$ CFU/100 mL) because of runoff from commercial markets and impervious cover, sewer and septic overflows. The authors noted intra-event variability of FIB across the monitoring sites. FIB concentrations increased during the peak flow and then decreased as the storm progressed. Levels of FIB significantly ($p < 0.05$) varied between early and late summer seasons with higher FIB concentrations observed in early summer. Anthropogenic activities and impervious cover were found to influence positive correlations ($r > 0.6$) between FIB numbers and environmental parameters such as temperature, turbidity, and total suspended solids.

Although, FIB monitoring in stormwater is a common practice, there are uncertainties associated with stormwater flow and *E. coli* (McCarthy et al., 2008; Harmel et al., 2006). Uncertainties of discrete *E. coli* samples and flow measurements were >30 and 97%, respectively. *E. coli* event mean concentration uncertainties varied between 10 and 52% and that uncertainties relating to site mean concentrations ranged from 35 to 55% (McCarthy et al., 2008). Sample collection procedures (5–30%), laboratory analysis, preservation/storage, and flow also contributed substantial (14–28%) uncertainties (Harmel et al., 2006; Harmel et al., 2010, 2016).

Another limitation of FIB is that they do not often correlate well with the presence of pathogens in environmental waters. The appropriateness of using FIB to indicate the presence of pathogens especially viruses and protozoa in stormwater has been questioned (Jiang et al., 2001; Schroeder et al., 2002; Jiang, 2004; Robertson and Nicholson, 2005; Signor et al., 2005; AWQC, 2008). This is somewhat expected as FIB in stormwater are sourced from feces of both human and animals, while human pathogens especially enteric viruses in urban stormwater mainly derived from sewage. In addition, the decay rates of FIB may be significantly different than those of viruses (Ahmed et al., 2014b). Hence, monitoring of FIB and interpreting their concentrations in terms of human health risks may not yield any meaningful outcomes.

As a result of these limitations, FIB are generally not used directly for risk estimation. However, some *E. coli* strains such as enteropathogenic *E. coli* (EPEC), enterohemorrhagic *E. coli* (*E. coli* O157:H7 or other EHEC), enterotoxigenic *E. coli* (ETEC), and others are pathogenic to humans and can be used for risk estimation purposes. Although these subsets are not routinely measured, general FIB can be used as a preliminary screening tool prior to testing for other pathogens. Additionally, ratios of FIB to pathogens are used occasionally for risk assessment purposes (Petterson et al., 2016).

3. MST marker genes in stormwater

Fecal contamination in stormwater can originate from point and non-point sources. Human health risk will be different depending on the sources. Untreated sewage poses the greatest risks to humans and the environment due to high concentrations of enteric viruses (EC, 2000; Fong et al., 2010; Soller et al., 2010). Sewage may be introduced into stormwater through illicit connections, cross connection between sewer pipes, storm drains and leakages into sewers through broken lines or poor pipe joints (Pitt, 2004). The presence of sewage in stormwater can be problematic due to the likely co-presence of pathogens. Identifying the presence of sewage in stormwater using is not straightforward due to dilution, infiltration, and lack of sensitive detection methods (Panasiuk et al., 2015). However, microbial source tracking (MST) marker genes are used to identify human feces and other sources of animal fecal contamination such as cattle, dogs, pigs, and birds in water (Harwood et al., 2014; Ahmed et al., 2016).

Human feces-associated marker genes such as *Bacteroides* HF183 (HF183), crAssphage CPQ_056 and CPQ_064, pepper mild mottle viruses (PMMoV), human polyomaviruses (HPyV), and Lachno3 are currently being used to determine the presence of human fecal contamination in environmental waters by research laboratories and water quality managers. These marker genes are sensitive and accurate analytical approaches of human fecal contamination due to high host-specificity and abundance in human and animal feces (Boehm et al., 2013). Several studies have reported the presence of human feces-associated marker genes in stormwater runoff and outfall samples (Table 1). Sidhu et al. (2012a) reported the presence of the *Bacteroides* HF183 (16 of 21 samples were positive for HF183 during both dry and wet weather samples) and *Enterococcus faecium* enterococci surface protein (*esp*) marker gene (8 of 23 samples were positive for *esp* during both dry and wet weather samples) in stormwater run-off samples and suggested the ubiquitous presence of sewage in the urban environment.

MST field studies have identified aging infrastructure as a contributor to sewage intrusion into stormwater system (Marsalek and Rochfort, 2004; Sauer et al., 2011; Guérineau et al., 2014). Several studies have reported the greater concentrations of the HF183 marker gene in stormwater samples (Sercu et al., 2011; Van De Werhorst et al., 2014; Paar 3rd et al., 2015) (Table 1). Olds et al. (2018) observed high levels of human *Bacteroides* (HB) and Lachno2 in the Milwaukee estuary and at the lower reaches of the three major rivers forming the estuary in Milwaukee, WI, USA after storm events. Concentrations of these marker genes were one to three orders of magnitude higher ($4.04\text{--}5.59 \log_{10}$ GC/L of HB and $4.04\text{--}6.27 \log_{10}$ GC/100 mL of Lachno2) in stormwater

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Table 2 (continued)

Potential pathogens	Country	Land use characteristics	Methods used	No. of samples tested (% of sample positive)	Mean/median \pm SD (range) in positive samples [95% CI upper limit] ^a	References
<i>C. parvum</i> or <i>hominis</i>	Sydney, Australia	Untreated seweraged urban	NM	59 (8.47)	0.77 ^b \pm 1.07 (NM-1.83) [1.25] oocysts/10 L	AWQC, 2008
<i>Giardia</i> spp. Raw samples	New York, USA	Five sites representing various landuse such as little anthropogenic impacts, suburban woodlots and high degree of impervious surfaces and developed areas	IMS and microscopy	–	0.59 \pm 0.28 (0.00-0.86) cysts/100 mL	Cizek et al., 2008
<i>Giardia</i> spp. Centrifuged				–	0.01 \pm 0.16 (−0.09-0.17) cysts/100 mL	
<i>Giardia</i> spp.	Sydney, Australia	Untreated seweraged urban		59 (18.6)	2.00 ^b \pm 2.53 (NM-3.40) [2.34] cysts/10 L	AWQC, 2008
<i>Giardia</i> spp.	Atlanta, Louisville, USA	Highly impervious commercial and various land uses	IMS and microscopy	24 (96)	3.55 ^a \pm 0.98 (2.30-4.47) [4.33] cysts/100 L	Arnone and Walling, 2006
Enteric viruses						
HAdV	California, USA	Highly urbanized	qPCR	8 (12.5)	3.98 ^d GC/L	Ahn et al., 2005
HAdV	Milwaukee, USA	Highly urbanized	qPCR	1 (100)	3.11 ^d GC/L	Sauer et al., 2011
HAdV	Sydney, Australia	Untreated seweraged urban	PCR	59 (3.38)	–	AWQC, 2008
HAdV	California, USA		Nested-PCR	(7)	–	Surbeck et al., 2006
HAdV	Brisbane, Australia	Mainly residential and commercial	PCR	23 (91.3)	–	Sidhu et al., 2013
HAdV	San Diego, USA	Tourmaline Creek – Highly urban residential and commercial	Digital qPCR	21 (9)	1.18 ^a \pm 0.03 (1.15-1.20) [1.20] GC/100 mL	Steele et al., 2018
		San Diego River – Urban residential, commercial and industrial		23 (22)	1.30 ^a \pm 0.17 (1.20-1.61) [1.61] GC/100 mL	
HAdV	Brisbane, Australia	Highly urbanized	PCR	7 (71.4)	–	Ahmed et al., 2012
HAdV 40/41	California, USA	Urban, agricultural and natural	qPCR	21 (4.76)	1.36 ^d GC/100 mL	Rajal et al., 2007
HAdV A	Philadelphia, USA	Residential and green space	qPCR	14 (7.14)	<0.01 ^{c,d}	McGinnis et al., 2018
HAdV C, D, F	Philadelphia, USA	Residential and green space	qPCR	14 (14.28)	(0.1-1.41) GC/L	McGinnis et al., 2018
HAdV	California, USA	Agricultural (25%), Urban (25%) and open space (50%)	qPCR	15 (6.70)	–	Bambic et al., 2015
HAdV	Brisbane, Australia	Urban residential, industrial, agricultural and rural	PCR	12 (91.6)	–	Sidhu et al., 2012a
Enterovirus	California, USA	Highly urbanized	RT-PCR	8 (12.5)	–	Ahn et al., 2005
Enterovirus	Sydney, Australia	Untreated seweraged urban	PCR	59 (22.0)	–	AWQC, 2008
Enterovirus	Milwaukee, USA	Highly urbanized	qPCR	1 (100)	4.28 ^d GC/L	Sauer et al., 2011
Norovirus GI + GII	South coast, England	Arable (42%), woodland (21%), grassland (18%), urban (6.4%)	qRT-PCR	5 (100)	(2.93-4.87) GC/L	Campos et al., 2015
NoV GI	Milwaukee, USA	Highly urbanized	qRT-PCR	1 (100)	3.18 ^d GC/L	Sauer et al., 2011
NoV GI	Philadelphia, USA	Residential and green space	qRT-PCR	1 (14)	1.86 ^d GC/L	McGinnis et al., 2018
NoV GII	San Diego, USA	Tourmaline Creek – Highly urban residential and commercial	Digital qPCR	21 (72)	2.04 ^a \pm 0.33 (1.39-2.72) [2.72] GC/100 mL	Steele et al., 2018
		San Diego River – Urban residential, commercial and industrial		23 (96)	2.07 ^a \pm 0.32 (1.58-2.69) [2.66] GC/100 mL	

NM: Not mentioned; –: Quantitative data not available; *: where available; ^a = mean (overall mean concentrations were calculated by authors from the available data); ^b = median; ^c: data not log transformed; ^d: single quantifiable sample.

reaction. PCR inhibitory substances may produce false negative results of pathogens in stormwater samples. For example, Corsi et al. (2014) reported a 63% inhibition rate across virus analysis, while Steele et al. (2018) reported 10–15% inhibition rate. This problem can be overcome by including a sample processing control (SPC) (Shanks et al., 2016).

Digital qPCR may also offer an advantage over qPCR when dealing with samples with inhibitory substances (Dingle et al., 2013; Cao et al., 2016). This is because in digital qPCR sample is partitioned into many wells as droplets unlike qPCR which measures the target as it occurs with comparison with a standard curve.

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Cizek et al. (2008) characterized the partitioning behaviour of *Cryptosporidium* and *Giardia* with traditional and alternative fecal indicators (*E. coli*, *Enterococcus* spp., and *Clostridium perfringens*) and a viral surrogate (coliphage) in stormwater runoff. Both protozoa exhibited similar levels of particle association during dry weather (roughly 30%) with an increased level observed during wet weather events (*Giardia* 60% and *Cryptosporidium* 40%). During wet weather events, FIB, coliphage and protozoa concentrations increased (~1–2 orders of magnitude) in tributaries examined in the Kensico Reservoir. FIB did not exhibit a strong one-to-one relationship with *Cryptosporidium* or *Giardia* in terms of total concentration or the settleable fraction in the Kensico Reservoir. The authors also found *C. perfringens* spores (Spearman $r = 0.13$ and coliphage $r = 0.11$) were the best indicators for *Cryptosporidium*. This is because the inactivation rates of *C. perfringens* and *C. parvum* were reported to be in the same order of magnitude (Hijnen et al., 2000).

In general, concentrations of pathogens in stormwater are poorly reported and some data may not be useful to infer risk or for quantitative microbial risk assessment (QMRA). For example, several studies have failed to detect or provided the percentage of samples positive for pathogens without giving quantitative numbers (Surbeck et al., 2006; Rajal et al., 2007; Sidhu et al., 2012a; Bambic et al., 2015). Most of the stormwater studies determined the concentrations of genus *Cryptosporidium* and *Giardia*. However, in urban stormwater there is evidence that most samples do not contain human infectious genotypes that are capable of causing illnesses in humans rather contain genotypes that infect animals. For instance, data from Jiang (2004) studying three United States sewered urban stormwater catchments found that only about 5% of around 100 *Cryptosporidium* oocyst types characterized were potentially human-infective.

Recent studies reported high risks due to *Campylobacter* spp. through reuse of stormwater in the Netherlands (Sales-Ortells and Medema, 2015) and Australia (Murphy et al., 2017). These studies, however, only measured members of the genus *Campylobacter* to estimate risk. Genus *Campylobacter* is comprised of 25 species, two provisional species and eight sub-species, with only a few species of human health significance (Man, 2011). Further research should focus on determining the levels of *C. jejuni*, *C. coli* or other pathogenic species such as *C. lari* and *C. upsaliensis* in stormwater for more accurate risk assessment.

Finally, the persistence of pathogens in stormwater compared to wastewater or other matrices has not been well characterized but can provide useful information for QMRA. A systematic review by Boehm et al. (2018) of pathogen persistence in surface waters indicated few decay constants available for protozoan and viral pathogens or viral surrogates, with viruses having the greatest degree of persistence. A comparison of the HF183 MST marker with NoV indicated that the first order decay coefficient k was higher for HF183 than NoV. To the author's knowledge, a similar meta-analysis has not been performed for pathogens in stormwater. Sidhu et al. (2015) estimated a T_{90} value of <3 days for bacterial pathogens, and <120 days and >200 days for *Cryptosporidium* spp. oocysts and enteric viruses, respectively in recycled stormwater used for managed aquifer recharge. Due to the persistence of viral pathogens, these microorganisms are likely to drive concerns for human health risk.

5. Health risk assessment approaches

Various approaches for assessing the health risks of microbial contaminants have been applied in the stormwater context including epidemiological approaches and quantitative microbial risk assessment (QMRA) models. Epidemiological studies observe patterns of disease in conjunction with environmental exposure and provide inferences rooted in observed health outcomes, and for this reason are highly valuable for assessing health risks. The findings of several epidemiological studies have supported a relationship between stormwater exposure

and waterborne illness for stormwater-impacted waterbodies (Haile et al., 1999; Colford Jr et al., 2007; Soller et al., 2017). However, due to the study sizes and expense required to achieve predictive power in epidemiological studies and difficulty attributing risks to a particular exposure source and/or pathway, often QMRA approaches are used to assess risks where effect sizes are projected to be small due to low environmental concentrations. QMRA uses a process of hazard identification, exposure assessment, dose response analysis, and risk characterization to predict the risk of an infection or disease-related outcome based on an exposure to environmental media (Haas et al., 2014). To the author's knowledge, there has not been an epidemiological study for potable or non-potable uses of stormwater resources. However, studies by Ashbolt and Bruno (2003) and Soller et al. (2017) have demonstrated the utility of combining both epidemiological and QMRA information where feasible for stormwater-affected waterbodies.

Undertaking QMRA for various exposures to stormwater can nevertheless be challenging due to difficulties in discerning the sources and concentrations of pathogen contamination in stormwater, and assumptions regarding pathogen sources, fate, and transport are needed depending on the availability of site-specific information. Several ($n = 16$) QMRA studies have relied upon concentrations of pathogens observed in stormwater-impacted coastal, recreational waters, or drinking source waters for assessment of health risks (Donovan et al., 2008; Soller et al., 2010; ten Veldhuis et al., 2010; Fewtrell et al., 2011; Tseng and Jiang, 2012; Andersen et al., 2013; McBride et al., 2013; de Man et al., 2014; Sales-Ortells and Medema, 2014; Schoen et al., 2014; Soller et al., 2014; Adell et al., 2016; Krkosek et al., 2016; Lim et al., 2017; Soller et al., 2015; Soller et al., 2017), and two have used other modelling approaches for microbial health risks such as Bayesian network modelling (Goulding et al., 2012) or disease transmission models (Soller et al., 2006). These recreational water QMRAs are reviewed in detail by Federigi et al. (2019). However, few studies have conducted a QMRA for potable and non-potable reuse exposures to stormwater (Table 3). The focus on potable and non-potable uses here is due to the difficulty of comparing recreational exposures with multiple non-point as well as point sources of contamination with stormwater-only exposures. Stormwater-impacted recreational waterbody exposures using FIB as well as pathogens as index pathogens were very high in some cases, up to 1.0 for a homeless population ingesting *Giardia*, for example (Donovan et al., 2008). The risks from potable and non-potable uses of stormwater in Table 3 varied substantially depending on the target pathogen and exposure scenario. Risks were considered highest for viral pathogens, in most cases exceeding risk benchmarks for potable and non-potable use with the exception of toilet flushing in some cases (Lim et al., 2015; Murphy et al., 2017). The studies summarized in Table 3 indicate that potable and non-potable exposures to stormwater are likely to exceed water quality targets [e.g. up to a geometric 240 CFU/mL for recycled water (USEPA, 2012b)] and risk benchmarks (10^{-4} probability of infection or 10^{-6} disability adjusted life years per person per year (pppy) in the absence of additional treatment and/or BMPs depending on the area, end use, and source water]. Microbial risks from harvested rainwater are considered as captured stormwater but have been reviewed elsewhere (Hamilton et al., 2019).

Factors such as temporal, regional, and compositional complexity of stormwater can make the quantification of pathogens more difficult than for some other matrices. Once concentration values are obtained, values can be corrected for recovery efficiency in a QMRA, however, low or variable recovery efficiencies can also complicate QMRA analysis. Furthermore, concentrations observed at the point of exposure may not be indicative of realistic exposure scenarios over time as they typically are not observed after a rainfall event during presumably peak pathogen concentrations, or dilution occurs at the point of exposure that in some cases will render concentrations of pathogens below the analytical detection limit (McBride et al., 2013). These factors must be taken into account when constructing QMRA models. Previous studies of pathogens in stormwater discharges have relied upon small sample sizes (Sidhu

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Table 3
Quantitative microbial risk assessments (QMRA) for potable and non-potable reuse of stormwater resources

Pathogen	Applications	Exposure routes	Exposure frequency and duration	Risk Mean/Median (95 th percentile or upper bound) or calculated LRV	References
<i>Campylobacter</i> <i>Cryptosporidium</i> Rotavirus	Stormwater treated in wetland used for managed aquifer recharge	Ingestion	Ingestion 2 L/day	<i>C. parvum</i> - 1.5×10^{-3} DALY <i>Campylobacter</i> 4.6×10^{-3} DALY	Page et al., 2008
<i>Campylobacter</i> <i>Cryptosporidium</i> Rotavirus	Irrigation, toilet flushing, laundry, irrigation, firefighting	Ingestion	Municipal irrigation and nonpotable construction activities (50 mL/year); dual reticulation for indoor and outdoor use (toilet, laundry, irrigating food crops, ornamental garden irrigation) (670 mL/person/year); firefighting (1 L/person/year); commercial food crops (490 mL/person/year); non-food crops (50 mL/person/year)	Rotavirus 8.4×10^{-3} DALY Log removals to achieve target concentrations associated with a 10^{-6} DALYs/person/year calculated (0.8 log [<i>Cryptosporidium</i> spp.]- 2.6 log [rotavirus])	NRMMC-EPHC-NHMRC, 2009
<i>Campylobacter</i> <i>Cryptosporidium</i> Rotavirus	Managed aquifer recharge with captured urban stormwater	Aerosol ingestion, routine ingestion, and accidental ingestion	Ingestion of irrigation sprays 0.1 mL, 90/person/year; routine ingestion of irrigation sprays 1 mL, 90/person/year; accidental ingestion during irrigation 100 mL 1/person/year.	<i>Campylobacter</i> spray ingestion 4.6×10^{-7} / 1.0×10^{-10} (95 th < 1.0×10^{-10}) DALY; routine ingestion 1.5×10^{-6} / 1.0×10^{-10} (95 th < 1.0×10^{-10}) DALY; accidental ingestion 1.2×10^{-7} / 1.0×10^{-10} (95 th < 1.0×10^{-10}) DALY	Toze et al., 2010
<i>Campylobacter</i> <i>Cryptosporidium</i> Rotavirus	Stormwater treated in wetland used for managed aquifer recharge	Ingestion	Ingestion 2 L/day	<i>Cryptosporidium</i> spray ingestion 6.2×10^{-8} / 1.6×10^{-8} (95 th 2.5×10^{-7}) DALY; routine ingestion 6.2×10^{-7} / 1.6×10^{-7} (95 th 2.5×10^{-6}) DALY; accidental ingestion 6.8×10^{-7} / 1.8×10^{-7} (95 th 2.8×10^{-6}) DALY <i>Rotavirus</i> spray ingestion 4.3×10^{-8} / 4.9×10^{-7} (95 th 7.0×10^{-4}); routine ingestion 2.8×10^{-3} / 4.0×10^{-6} (95 th 1.4×10^{-4}); accidental ingestion 4.2×10^{-5} / 3.9×10^{-6} (95 th 1.6×10^{-4}) <i>C. parvum</i> : 2.8×10^{-8} / 1×10^{-10} DALY (95 th 1.1×10^{-6} , max 1.7×10^{-4})	Page et al., 2009; Page et al., 2010a; Page et al., 2010c; Page et al., 2010d
<i>Campylobacter</i> <i>Cryptosporidium</i> Rotavirus	Stormwater treated in wetland used for managed aquifer recharge	Ingestion	Not specified	<i>Campylobacter</i> : $<1 \times 10^{-10}$ DALY <i>Rotavirus</i> : 3.0×10^{-7} / $<1.0 \times 10^{-10}$ DALY (95 th 6.6×10^{-6} , 8.4 $\times 10^{-4}$) <i>C. parvum</i> : $<1 \times 10^{-10}$ - 1.5×10^{-3} DALY (95 th $<1 \times 10^{-10}$ - 1.5×10^{-3}),	Page et al., 2010b
<i>Campylobacter</i> <i>Cryptosporidium</i> Rotavirus	Stormwater treated in wetland used for managed aquifer recharge	Ingestion	Ingestion 2 L/day	<i>Campylobacter</i> : $<1 \times 10^{-10}$ DALY all parameters. <i>Rotavirus</i> : $<1.0 \times 10^{-10}$ - 8.4×10^{-4} (95 th $<1.0 \times 10^{-10}$ - 8.4×10^{-4}). <i>C. parvum</i> : Log reduction credits for 10^{-6} DALY risk open space irrigation 0.8-4.8, drinking 4.9->6.0 (Page et al., 2012)	Page et al., 2012
<i>Campylobacter</i> <i>Cryptosporidium</i> Rotavirus	Stormwater treated in wetland used for managed aquifer recharge	Ingestion	Ingestion 2 L/day	<i>Campylobacter</i> : Log reduction credits for 10^{-6} DALY risk open space irrigation 1.3->6.0, drinking 5.5->6.0 (Page et al., 2012)	Page et al., 2012

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Table 3 (continued)

Pathogen	Applications	Exposure routes	Exposure frequency and duration	Risk Mean/Median (95 th percentile or upper bound) or calculated LRV	References
HAdV	Irrigation*	Aerosol ingestion, accidental ingestion	Boating 1 mL 52 times/year; irrigation aerosols 1 mL 90 times/year; irrigation accidental ingestion 100 mL 1 time/year.	Rotavirus: Log reduction credits for 10 ⁻⁶ DALY risk open space irrigation 1.3–3.4, drinking 5.5–>6.0 (Paget al. 2012)	
E. coli O157:H7	Riverbank filtration managed aquifer recharge	Ingestion	3.12 ± 1.17 L/day (Normal distribution)	Log removal credits calculated to achieve 10 ⁻⁶ DALY for adenovirus for irrigation (aerosol) 2.3–3.2/1.4–2.5 (95 th 2.9–3.8), irrigation (accidental ingestion) 2.4–3.2/1.5–2.5 (95 th 2.9–3.8)	Sidhu et al., 2012b
HAdV NoV	Toilet flushing, showering, and consumption of irrigated lettuce	Aerosol inhalation, aerosol ingestion, lettuce consumption	Four flushes/day, one 20 min shower/day; Lettuce consumed 90, 180, or 270 times/year. Toilet and shower inhalation volumes calculated based on aerosols produced by fixtures and aerosol volumes.	Adenovirus: Toilet flushing annual infection risk 1.1 × 10 ⁻⁷ –8.9 × 10 ⁻⁷ (95 th 2.7 × 10 ⁻⁷ –1.2 × 10 ⁻⁶); DALY risk 3.0 × 10 ⁻⁸ –2.4 × 10 ⁻⁸ (95 th 7.2 × 10 ⁻⁸ –3.1 × 10 ⁻⁸). Showering annual infection risk 3.6 × 10 ⁻⁷ –5.3 × 10 ⁻⁷ (95 th 1.3 × 10 ⁻⁶ –3.5 × 10 ⁻⁶); DALY risk 1.1 × 10 ⁻⁸ –1.6 × 10 ⁻⁸ (95 th 3.5 × 10 ⁻⁸ –9.3 × 10 ⁻⁸). Norovirus: Toilet flushing annual infection risk 5.3 × 10 ⁻⁷ –1.3 × 10 ⁻⁴ (95 th 1.6 × 10 ⁻⁶ –1.34 × 10 ⁻⁴); DALY risk 1.0 × 10 ⁻²⁰ –1.5 × 10 ⁻¹⁶ (95 th 5.3 × 10 ⁻¹⁹ –3.2 × 10 ⁻¹⁵). Showering annual infection risk 3.4 × 10 ⁻⁴ –4.3 × 10 ⁻² (95 th 1.6 × 10 ⁻³ –1.9 × 10 ⁻²); DALY risk 1.1 × 10 ⁻¹⁴ –6.3 × 10 ⁻¹¹ (95 th 1.4 × 10 ⁻¹⁰ –1.0 × 10 ⁻⁷). Food crop annual infection risk 8.0 × 10 ⁻⁴ –9.8 × 10 ⁻⁴ (95 th 2.6 × 10 ⁻²); DALY risk 8.0 × 10 ⁻¹⁴ –1.1 × 10 ⁻⁶ (95 th 3.3 × 10 ⁻¹⁰ –1.8 × 10 ⁻⁸)	Lim et al., 2015
Campylobacter Cryptosporidium RoV	Managed aquifer recharge with stormwater	Ingestion	Open space irrigation 1 mL, 50/year; toilet flushing 0.01 mL, 1,100/year; drinking 2L/day	Log removals calculated to meet health targets for viruses (1.0–8.6), protozoa (0->10.8), and bacteria (0.5->16.0)	Page et al., 2015
Campylobacter spp. (human) Campylobacter spp. (zoonotic) L. pneumophila	Recreational exposure to urban stormwater plaza receiving street and roof runoff	Ingestion, inhalation	Ingestion: exposure volume triangular (0, 0.051, 5) mL/event; Inhalation: aerosolization ratio Normal (mean, SD 10 ^{-8.97} , 10 ^{0.3}), inhalation rate normal (mean log (22.7), SD 0.06 L/min), exposure duration 21 ± 5 min, exposure frequency mean 2.7 events/year for high rainfall, mean 6.5 events/year for low rainfall Aerosol ingestion 0.1 mL, weekly; hand-to-mouth exposure during sporting activities 1 mL, weekly; hand-to-mouth exposure of council workers watering trees, Accidental drinking 100 mL, single exposure. Various sources of E. coli assumed.	Campylobacter spp. (human): 4.5 × 10 ⁻² (95% 1.2 × 10 ⁻¹)/person/event Campylobacter spp. (zoonotic): 2.5 × 10 ⁻³ (95% 9.2 × 10 ⁻⁴)/person/event L. pneumophila: 1.2 × 10 ⁻⁹ (95% 5.2 × 10 ⁻⁹)/person/event	Sales-Ortells and Medema, 2014, Sales-Ortells and Medema, 2015
Campylobacter ^a Salmonella spp. RoV HAdV Cryptosporidium ^a	Stormwater harvesting system in residential development, car park, or large urban catchment with ageing infrastructure; avian- or human sewage- driven contamination	Aerosol ingestion by community residents, Hand-to-mouth exposure by participants in sporting activities, Hand-to-mouth exposure of council workers watering trees, Accidental drinking incident	Aerosol ingestion 0.1 mL, weekly; hand-to-mouth exposure during sporting activities 1 mL, weekly; hand-to-mouth exposure of tree watering council workers 1 mL, daily; accidental drinking 100 mL, single exposure. Various sources of E. coli assumed.	Campylobacter aerosols 2.7 × 10 ⁻⁹ –0.1 (95 th 1.5 × 10 ⁻⁷ –7.0 × 10 ⁻²); hand-to-mouth 2.7 × 10 ⁻⁹ –0.15 (95 th 1.5 × 10 ⁻⁶ –0.12); accidental ingestion 2.7 × 10 ⁻⁶ –0.24 (95 th 1.5 × 10 ⁻⁴ –0.21) Salmonella spp. aerosols 1.3 × 10 ⁻¹² –5.0 × 10 ⁻⁵ (95 th 4.1 × 10 ⁻¹⁰ –7.0 × 10 ⁻²); hand-to-mouth 1.3 × 10 ⁻¹¹ –0.15 (95 th 4.1 × 10 ⁻⁹ –0.12)	Petterson et al., 2016

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Pathogen	Applications	Exposure routes	Exposure frequency and duration	Risk Mean/Median (95 th percentile or upper bound) or calculated LRV	References
HAdV	Irrigation*	Aerosol ingestion, accidental ingestion	Boating 1 mL 52 times/year; irrigation aerosols 1 mL 90 times/year; irrigation accidental ingestion 100 mL 1 time/year.	Rotavirus: Log reduction credits for 10 ⁻⁶ DALY risk open space irrigation 1.3–3.4, drinking 5.5–>6.0 (Paget al. 2012)	
E. coli O157:H7	Riverbank filtration managed aquifer recharge	Ingestion	3.12 ± 1.17 L/day (Normal distribution)	Log removal credits calculated to achieve 10 ⁻⁶ DALY for adenovirus for irrigation (aerosol) 2.3–3.2/1.4–2.5 (95 th 2.9–3.8), irrigation (accidental ingestion) 2.4–3.2/1.5–2.5 (95 th 2.9–3.8)	Sidhu et al., 2012b
HAdV NoV	Toilet flushing, showering, and consumption of irrigated lettuce	Aerosol inhalation, aerosol ingestion, lettuce consumption	Four flushes/day, one 20 min shower/day; Lettuce consumed 90, 180, or 270 times/year. Toilet and shower inhalation volumes calculated based on aerosols produced by fixtures and aerosol volumes.	Adenovirus: Toilet flushing annual infection risk 1.1 × 10 ⁻⁷ –8.9 × 10 ⁻⁷ (95 th 2.7 × 10 ⁻⁷ –1.2 × 10 ⁻⁶); DALY risk 3.0 × 10 ⁻⁸ –2.4 × 10 ⁻⁸ (95 th 7.2 × 10 ⁻⁸ –3.1 × 10 ⁻⁸). Showering annual infection risk 3.6 × 10 ⁻⁷ –5.3 × 10 ⁻⁷ (95 th 1.3 × 10 ⁻⁶ –3.5 × 10 ⁻⁶); DALY risk 1.1 × 10 ⁻⁸ –1.6 × 10 ⁻⁸ (95 th 3.5 × 10 ⁻⁸ –9.3 × 10 ⁻⁸). Norovirus: Toilet flushing annual infection risk 5.3 × 10 ⁻⁷ –1.3 × 10 ⁻⁴ (95 th 1.6 × 10 ⁻⁶ –1.34 × 10 ⁻⁴); DALY risk 1.0 × 10 ⁻²⁰ –1.5 × 10 ⁻¹⁶ (95 th 5.3 × 10 ⁻¹⁹ –3.2 × 10 ⁻¹⁵). Showering annual infection risk 3.4 × 10 ⁻⁴ –4.3 × 10 ⁻² (95 th 1.6 × 10 ⁻³ –1.9 × 10 ⁻²); DALY risk 1.1 × 10 ⁻¹⁴ –6.3 × 10 ⁻¹¹ (95 th 1.4 × 10 ⁻¹⁰ –1.0 × 10 ⁻⁷). Food crop annual infection risk 8.0 × 10 ⁻⁴ –9.8 × 10 ⁻⁴ (95 th 2.6 × 10 ⁻²); DALY risk 8.0 × 10 ⁻¹⁴ –1.1 × 10 ⁻⁶ (95 th 3.3 × 10 ⁻¹⁰ –1.8 × 10 ⁻⁸)	Lim et al., 2015
Campylobacter Cryptosporidium RoV	Managed aquifer recharge with stormwater	Ingestion	Open space irrigation 1 mL, 50/year; toilet flushing 0.01 mL, 1,100/year; drinking 2L/day	Log removals calculated to meet health targets for viruses (1.0–8.6), protozoa (0->10.8), and bacteria (0.5->16.0)	Page et al., 2015
Campylobacter spp. (human) Campylobacter spp. (zoonotic) L. pneumophila	Recreational exposure to urban stormwater plaza receiving street and roof runoff	Ingestion, inhalation	Ingestion: exposure volume triangular (0, 0.051, 5) mL/event; Inhalation: aerosolization ratio Normal (mean, SD 10 ^{-8.97} , 10 ^{0.3}), inhalation rate normal (mean log (22.7), SD 0.06 L/min), exposure duration 21 ± 5 min, exposure frequency mean 2.7 events/year for high rainfall, mean 6.5 events/year for low rainfall Aerosol ingestion 0.1 mL, weekly; hand-to-mouth exposure during sporting activities 1 mL, weekly; hand-to-mouth exposure of council workers watering trees, Accidental drinking 100 mL, single exposure. Various sources of E. coli assumed.	Campylobacter spp. (human): 4.5 × 10 ⁻² (95% 1.2 × 10 ⁻¹)/person/event Campylobacter spp. (zoonotic): 2.5 × 10 ⁻³ (95% 9.2 × 10 ⁻⁴)/person/event L. pneumophila: 1.2 × 10 ⁻⁹ (95% 5.2 × 10 ⁻⁹)/person/event	Sales-Ortells and Medema, 2014, Sales-Ortells and Medema, 2015
Campylobacter ^a Salmonella spp. RoV HAdV Cryptosporidium ^a	Stormwater harvesting system in residential development, car park, or large urban catchment with ageing infrastructure; avian- or human sewage- driven contamination	Aerosol ingestion by community residents, Hand-to-mouth exposure by participants in sporting activities, Hand-to-mouth exposure of council workers watering trees, Accidental drinking incident	Aerosol ingestion 0.1 mL, weekly; hand-to-mouth exposure during sporting activities 1 mL, weekly; hand-to-mouth exposure of tree watering council workers 1 mL, daily; accidental drinking 100 mL, single exposure. Various sources of E. coli assumed.	Campylobacter aerosols 2.7 × 10 ⁻⁹ –0.1 (95 th 1.5 × 10 ⁻⁷ –7.0 × 10 ⁻²); hand-to-mouth 2.7 × 10 ⁻⁹ –0.15 (95 th 1.5 × 10 ⁻⁶ –0.12); accidental ingestion 2.7 × 10 ⁻⁶ –0.24 (95 th 1.5 × 10 ⁻⁴ –0.21) Salmonella spp. aerosols 1.3 × 10 ⁻¹² –5.0 × 10 ⁻⁵ (95 th 4.1 × 10 ⁻¹⁰ –7.0 × 10 ⁻²); hand-to-mouth 1.3 × 10 ⁻¹¹ –0.15 (95 th 4.1 × 10 ⁻⁹ –0.12)	Petterson et al., 2016

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Table 3 (continued)

Pathogen	Applications	Exposure routes	Exposure frequency and duration	Risk Mean/Median (95 th percentile or upper bound) or calculated LRV	References
<i>Campylobacter</i>	Toilet flushing, irrigation, and swimming in stormwater wetland using different stormwater treatments (wetlands, biofilters, and traditional treatment trains)	Aerosol ingestion, routine ingestion (hand-to-mouth)*	Garden irrigation aerosol ingestion 0.1 mL/event, 90 events/person/year; garden irrigation (routine hand-to-mouth exposure) 1 mL/event, 90 events/person/year; Municipal irrigation 100 mL/event, 1 event/person/year; toilet flushing 0.01 mL/event, 1100 events/person/year. Multiple treatment options and dose response models evaluated.	Rotavirus aerosols 1.4×10^{-3} (95 th 4.3×10^{-1}); hand-to-mouth 1.3×10^{-2} (95 th 0.21); accidental ingestion 0.31 (95 th 1.0) Adenovirus aerosols 1.3×10^{-3} (95 th 4.3×10^{-1}); hand-to-mouth 1.3×10^{-2} (95 th 0.35); accidental ingestion 0.72 (95 th 1.0) <i>Cryptosporidium</i> * aerosols 2.9×10^{-6} (95 th 7.7×10^{-7}); hand-to-mouth 2.9×10^{-7} (95 th 7.7×10^{-6}); accidental ingestion 2.9×10^{-5} (95 th 7.6×10^{-4}) Garden irrigation aerosol ingestion: per infection 1.1×10^{-9} - 3.1×10^{-3} , annual risk 1.0×10^{-7} - 1.4×10^{-1} (95 th 1.4×10^{-7} - 7.0×10^{-1}), DALY risk 1.3×10^{-10} - 2.2×10^{-1} (95 th 2.2×10^{-10} - 1.1×10^{-3}) Garden irrigation routine ingestion hand-to-mouth: per infection 1.1×10^{-6} - 2.4×10^{-1} , annual risk 1.0×10^{-6} - 2.4×10^{-1} (95 th 1.6×10^{-6} - 4.9×10^{-1}), DALY risk 1.4×10^{-9} - 3.9×10^{-4} (95 th 2.5×10^{-9} - 9.5×10^{-4}) Garden irrigation accidental ingestion: per infection 1.1×10^{-10} - 3.7×10^{-4} , annual risk 1.2×10^{-7} - 1.7×10^{-1} (95 th 1.7×10^{-7} - 7.8×10^{-1}), DALY risk 1.6×10^{-10} - 2.7×10^{-4} (95 th 2.7×10^{-10} - 1.2×10^{-3}) Municipal irrigation: per infection 1.1×10^{-8} - 2.6×10^{-3} , annual risk 1.0×10^{-1} - 1.4×10^{-1} (95 th 1.4×10^{-8} - 6.1×10^{-1}), DALY risk 1.3×10^{-9} - 2.3×10^{-4} (95 th 2.2×10^{-9} - 2.3×10^{-4}) Toilet flushing: per infection 1.1×10^{-8} - 2.4×10^{-1} , annual risk 5.6×10^{-7} - 2.4×10^{-1} (95 th 7.9×10^{-7} - 4.7×10^{-1}), DALY risk 7.2×10^{-10} - 3.9×10^{-4} (95 th 1.2×10^{-9} - 9.3×10^{-4}) Log removals to achieve target concentrations associated with a 10^{-4} annual infection risk calculated: Norovirus: toilet flushing 2.5-7.3, unrestricted irrigation 3.2-8.0, indoor use 5.0-7.9, drinking 9.3-12.4. Mastadenovirus: toilet flushing 2.1-4.1, unrestricted irrigation 2.8-4.8, indoor use 3.9-5.9, drinking 6.9-8.9. <i>Cryptosporidium</i> spp.: toilet flushing 0.8-3.8, unrestricted	Murphy et al., 2017
<i>Mastadenovirus</i> (adenovirus) Norovirus <i>Campylobacter</i> spp. <i>Salmonella</i> spp. <i>Giardia</i> spp. <i>Cryptosporidium</i> spp.	Indoor use (toilet flushing and clothes washing), accidental ingestion of treated non-potable water (cross-connection with potable water), unrestricted outdoor irrigation, drinking	Ingestion	Toilet flushing (3×10^{-5} L/day, 365 d/y), clothes washing (1×10^{-5} L/day, 365 d/y), irrigation and dust suppression (1×10^{-3} L/day, 50 d/y), Cross-connection of treated water with potable water (2 L/day, 1 day/year, 10% of population exposed), potable consumption (2 L/day, 365 days). Multiple dose response models used.	Toilet flushing: per infection 1.1×10^{-8} - 2.4×10^{-1} , annual risk 5.6×10^{-7} - 2.4×10^{-1} (95 th 7.9×10^{-7} - 4.7×10^{-1}), DALY risk 7.2×10^{-10} - 3.9×10^{-4} (95 th 1.2×10^{-9} - 9.3×10^{-4}) Log removals to achieve target concentrations associated with a 10^{-4} annual infection risk calculated: Norovirus: toilet flushing 2.5-7.3, unrestricted irrigation 3.2-8.0, indoor use 5.0-7.9, drinking 9.3-12.4. Mastadenovirus: toilet flushing 2.1-4.1, unrestricted irrigation 2.8-4.8, indoor use 3.9-5.9, drinking 6.9-8.9. <i>Cryptosporidium</i> spp.: toilet flushing 0.8-3.8, unrestricted	Schoen et al., 2017

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Table 3 (continued)

Pathogen	Applications	Exposure routes	Exposure frequency and duration	Risk Mean/Median (95 th percentile or upper bound) or calculated LRV	References
				irrigation 1.6–4.5, indoor use 2.8–5.7, drinking 5.7–8.6	
				<i>Giardia</i> spp.: toilet flushing 0.5–2.5, unrestricted irrigation 1.3–3.3, indoor use 2.5–4.5, drinking 5.4–7.4	
				<i>Campylobacter</i> spp.: toilet flushing 1.4–3.4, unrestricted irrigation 2.1–4.1, indoor use 3.1–5.1, drinking 6.2–8.2	
				<i>Campylobacter</i> spp.: toilet flushing 0–1.8, unrestricted irrigation 0.6–2.6, indoor use 1.8–3.8, drinking 4.6–6.6	

^a Species not specified and based on surrogate data; dose response models for *C. jejuni*, *S. enterica*, *Cryptosporidium* spp. were used; *only potable and non-potable exposure scenarios included

et al., 2012a, 2012b; McBride et al., 2013; Sales-Ortells and Medema, 2015), limiting the ability to capture the large variability in stormwater pathogen concentrations due to potentially diverse fecal contamination sources (human and multiple animal fecal wastes, affecting the types of index pathogens chosen for the QMRA), rainfall patterns, decay rates, and other factors.

Monitoring efforts conducted to inform QMRAs by Petterson et al. (2016) and McBride et al. (2013) confirmed that variability in pathogen concentration is indeed high between rainfall and baseline events. There is therefore a need to look at a scenario-conditional risk estimate (sometimes referred to as “conditional risk”), rather than averaging or annualizing over time without regard to rainfall events. Pathogens can survive on urban surfaces and building materials, for example, and could furthermore be introduced into stormwater during subsequent rain events without the presence of an ongoing fecal source. This further supports the need for comparison of stormwater wet-weather risks with dry event (baseline) risks (Taylor et al., 2013).

Some of the principal challenge in conducting a QMRA for stormwater is determining the concentration of pathogens in stormwater discharges or harvesting systems, and addressing the complexities of their transport and inactivation prior to arrival at a human receptor. In lieu of a detailed hydrodynamic or fate and transport models for pathogens, simplified assumptions of decay and dilution between a pathogen source and human receptor are often made. Dilution factors are sometimes applied to estimate pathogen loads between stormwater and receiving recreational bodies; for example, McBride et al. (2013) used a 30-fold dilution factor applied to the concentrations of pathogens observed in stormwater discharges. Other studies have applied an estimated microbial decay factor for particular pathogens or indicators as surrogates for pathogens in stormwater, sometimes also coupled with a dilution factor (Petterson et al., 2016; Lim et al., 2015). The use of hydrodynamic mixing and inactivation models such as those applied by Andersen et al. (2013) could be used to obtain more accurate site-specific dilution information, or a distribution of dilution factors could be incorporated into a Monte Carlo approach in QMRA models as performed in Soller et al., 2017.

Improved characterization of different removal values for bacteria, protozoans and viruses in stormwater treatment processes can also improve QMRA estimates, as previous estimates have been based on FIB rather than pathogens themselves due to limited data (Davies et al., 2008; Page et al., 2010a, 2010b, 2010c, 2010d; Petterson et al., 2016). Limited information is available for pathogen removal by stormwater treatment barriers and would be informative for conducting risk

analyses. Additionally, these values can be compared with theoretical LRVs necessary to meet health risk targets (NRMMC-EPHC-AHMC, 2009; Page et al., 2015; Schoen and Garland, 2015; Schoen et al., 2017).

As stormwater concentrations of pathogens cannot always be directly measured, impacts to stormwater can also be estimated; Petterson et al. (2016) modelled avian contamination of stored stormwater resources with birds colonized by *Campylobacter* and *Salmonella* as well as pathogen inputs from human sewage using an epidemiologic approach, making use of information about disease incidence, pathogen excretion and known sewage flow rates to approximate loading rates in a typical sewage. Several recent studies used QMRA analysis to determine HF183 concentrations that represent human health risks to swimmers based on the recreational water quality criteria (RWQC) risk benchmark of 36/1000 primary contact recreators (USEPA, 2012a; Boehm et al., 2015; Ahmed et al., 2018d). Such approaches can also be undertaken to determine the health risks associated with different stormwater end use where the pathogen data is lacking or not available.

QMRA can be a useful tool for examining the potential human health risks related to rainfall events and can inform risk management practices (Bichai and Ashbolt, 2017). These assessments show that there are non-trivial risks associated with the use of stormwater resources to supplement water portfolios and in some cases guidelines are not sufficient to mitigate risks (Murphy et al., 2017). This is needed as stormwater harvesting areas can create new opportunities for co-mingling of potential animal habitats or reservoirs for animal fecal material and human recreational environments, where transmission of fecal pathogens can occur (Sales-Ortells and Medema, 2015; Petterson et al., 2016). While acknowledging the utility of QMRA, caution must be exercised when comparing risk estimates from QMRAs employing different methodologies. For example, a direct comparison of annual infection risks and annual disability adjusted life years (DALYs) (pppy) should be interpreted carefully as these methodologies can lead to different risk conclusions when compared to guideline values (Lim et al., 2015). Furthermore, it has been suggested that drinking water benchmarks could be too stringent for comparison with alternative water uses in some cases and warrants consideration of the development of more applicable guideline values (Mara, 2011; Schoen and Garland, 2015).

6. Reduction of microbial contaminants through WSUD/BMPs

Elevated levels of microbial contaminants in stormwater is of great concern for water safety. As a result, there is regulatory pressure to

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remove contaminants so that risk benchmarks can be met. A variety of microbial contaminant mitigation measures can be used including the implementation of various types of stormwater infrastructure (Thurston et al., 2001; Struck et al., 2008). Fletcher et al. (2015) undertook a review of terminology associated with urban stormwater management in different countries. The terms reviewed included: WSUD, BMPs, Integrated Urban Water Management (IUWM), Low Impact Urban Design and Development (LIUDD), Low Impact Development (LID), Green Infrastructure, and Sustainable Urban Drainage Systems (SUDS). Their review identified that whilst the concepts are all underpinned by the principles of reducing disturbance to natural hydrology and mitigating the water quality impacts of urbanisation, there are subtle differences in the scope and focus of terms (Fletcher et al., 2015). However, for the purposes of this review the terms can be considered broadly analogous and are hereafter referred to as "WSUD".

WSUD takes an integrated approach to managing stormwater that protects public health, while also mitigating the environmental impacts of urban development and provides for improved community amenity. WSUD has the objective of reducing the impact of urbanisation on the natural water cycle, and its principles can be applied at a range of scales (Lloyd et al., 2002). Davies (1996) proposed that, fundamentally, WSUD strives to maintain the water balance and water quality of an urbanized environment in much the same state as prior to urbanisation.

The approaches taken to implement WSUD will depend upon the development context and drivers for the adoption of WSUD. WSUD approaches often use a 'treatment train' where a series of treatment approaches are used to meet stormwater objectives. The approaches applied will depend upon the catchment characteristics, climate conditions and discharge requirements. Often the initial stages of a WSUD treatment train will focus on the removal of coarse sediments, which can help improve the treatment effectiveness of subsequent stages that use filtration and/or biological processes. In addition to the WSUD treatment approaches summarized below, non-structural catchment-scale approaches can be used to improve quality of runoff discharged to receiving waters (Wong, 2006). This can include buffers around waterways that limit potentially polluting land uses, and the revegetation of riparian zones. For example, Bryan et al. (2009) described the use of an adaptive management framework to reduce *Cryptosporidium* risk in an agricultural catchment in South Australia.

Although information regarding the degree of pathogen removal from various WSUDs can help for water quality managers and urban planners to design and maintain systems that adequately protect public health, data available on specific LRVs of pathogens through WSUD is limited (NRMMC-EPHC-NHMRC, 2009). Most studies have employed FIB to derive the LRVs of microbial removal in specific WSUD treatment processes and as such, and there is much less information on the removal of specific pathogens such as viruses and protozoa which have very different physico-chemical characteristics. A range of factors have an impact on the treatment capability of WSUD systems. The removal of pathogens varies from system to system and therefore, it may be useful to assess individual systems *in-situ* to account for local variability resulting from factors such as sedimentation, sunlight exposure, water temperature, and adsorption/desorption with biofilms (Jiang et al., 2015). Peng et al., 2016 highlighted that most microbe focused studies of stormwater biofilters focus on FIB, which are measured by culture-based methods, and less frequently by molecular based methods. These studies may be difficult to extrapolate to pathogens. There are few studies on the removal of pathogens, particularly viruses, in stormwater by biofiltration. Peng et al. (2016) also noted the need for more studies that use field-based measurements, rather than laboratory settings, as it captures the more variable and complex features of the urban environment that influences how effective WSUD approaches are likely to be in reducing pathogen loads.

One key resource for LRV in WSUD is the International Stormwater BMP Database. The database contains approximately 600 pairs of

influent and effluent data for fecal coliforms and *E. coli*. Among the 600 pairs, 100 pairs belong to *E. coli* from 12 sites in Portland, Oregon and the remaining 500 pairs are fecal coliform collected from 61 sites in California, Florida, Virginia, Ontario, New York, Texas, Georgia, North Carolina, and Oregon. Clary et al. (2008) analyzed the fecal coliform and *E. coli* datasets in the International Stormwater BMP database and provided results on how BMPs can effectively reduce fecal indicator concentrations in order to assist in meeting total maximum daily load (TMDL) goals. Swales and detention basins did not appear to effectively reduce FIB in effluent samples. Datasets for wetlands and manufactured devices were not of adequate size to draw meaningful conclusions. The authors concluded that the ability of BMPs to reduce FIB varies widely within BMP categories. No single BMP appears to be able to consistently reduce FIB in effluent to levels below instream primary contact recreation standard. Among the BMPs, retention pond and media filters appeared to have potential for bacteria removal in effluent.

Chandrasena et al. (2016) studied the removal of *E. coli* and *Campylobacter* spp. from urban stormwater by field-scale biofilters. *E. coli* LRVs (average 1.23–1.39 LRVs) were greater than that of *Campylobacter* spp. (average 0.88–0.99 LRVs) in both biofilters. The authors did not find any correlation between *E. coli* and *Campylobacter* spp. log removal performance suggesting that single organisms should not be employed to understand pathogen removal in urban stormwater treatment systems.

Such variations may affect performance evaluation as well as the impact of other factors including the selection of plants, use of a submerged zone in biofilters, and operation under wet vs. dry conditions (Jiang et al., 2015; Chandrasena et al., 2016). Generally, a one \log_{10} removal of FIB and pathogens can be expected if biofilters are properly designed according to local guidance (Bichai and Ashbolt, 2017). However, the performance of such systems can be site specific, and therefore, undertaking *in situ* validation of specific devices has been recommended (Payne et al., 2015). While individual WSUD technologies performances are available, there is an expectation that there would be an improved or increased performance for the removal of contaminants when water is passed through a series of WSUD technologies prior to (re)use (Vogel et al., 2015).

This not only can increase the amount of contaminants removed, but can also enable a level of redundancy to be built in so that if treatment of an individual WSUD technologies declines, the resulting reduction in treatment capacity is covered by the rest of the WSUD treatment system. In addition, residence time is important for the removal of microorganisms, so the longer water is held within a WSUD treatment system, the greater the pathogen removal rates.

Table 4 provides information on the studied removal capacity of a range of WSUD treatment systems. While there is variability in the removal capacity of the different reported WSUD systems, in general all of these systems achieved 0.5 to 1 LRV for FIB and the bacterial pathogen *Campylobacter*. The results also show that bacterial removal is faster (or higher) than viral and protozoan pathogens, which tend to be more resistant to treatment processes, and therefore more able to survive through the different WSUD treatments. This is due to the differences in size, surface characteristics, mode of reproduction and life cycle of viruses and protozoa which are different than those of bacteria (Hoff and Akin, 1986). In general, sequential treatment systems with a series of ponds, wetlands or combinations tend to improve pathogen removal from source water. For example, Reinoso et al. (2008) evaluated the removal of a variety of traditional and alternative fecal indicators such as coliphages, total coliform, *E. coli*, fecal streptococci and *C. perfringens* and pathogens such as *Cryptosporidium* spp. and *Giardia* spp. from domestic sewage in a treatment train including pond storage followed by surface and subsurface wetlands, with the overall *Cryptosporidium* and *Giardia* removal efficiency found to be as high as two \log_{10} . A new potential WSUD treatment component currently being studied is the addition of heavy metal (e.g., copper) labelled zeolite to filtration bed media. Laboratory research has demonstrated that copper coated zeolite can have LRV capability for bacteria such as *E. coli* greater than three \log_{10} (Li

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et al., 2012). Stormwater can also be contaminated with viral and protozoan pathogens, both of which have higher treatment requirements than bacteria. However, the information on the effect of zeolites coated with heavy metals on these enteric non-bacterial pathogens is very limited. Silver/copper coated zeolites could reduce coronavirus by 2–3 LRVs (Bright et al., 2009) and silver-impregnated filtration pots reduced *Giardia* and *Cryptosporidium* by at least 96% (~1.5 LRV) (Adeyemo et al., 2015). More research would be needed to assess the treatment potential of copper-coated zeolite on a range of enteric viruses and protozoa under in-field conditions before its use could be justified as beneficial for the cost, particularly for the removal of pathogens.

7. Stormwater treatment and risk mitigation

Stormwater harvesting systems generally require some level of treatment to minimise operational risks. Additional treatment may also be required for higher exposure uses to manage human health and environmental risks. The operational risks relating to stormwater quality are usually managed by the use of BMPs/WSUDs. For example gross pollutant traps and vegetated swales to remove sediment and leaves entering the stormwater harvesting scheme and potentially blocking pipes, irrigation nozzles or drip irrigation systems, or damaging pumps. Use of wetlands and bio-retentive systems can also assist in reducing high loads of organic matter (e.g. leaf fall) as well as removing nitrogen and phosphorus through phytoremediation. Additional levels of treatment are often required to manage human health risks, where stormwater from a sewered residential catchment is used for public, open-space irrigation (e.g. in schools and sporting ovals). Here, human health risks can be managed by the use of on-site access controls to minimise exposure to irrigation water. For example, the use of withholding periods on public recreation ovals has been recommended to reduce the risks from pathogens (Page et al., 2014b).

Additional treatments may be required for higher exposure usages, for example the Australian Guidelines for Stormwater Harvesting and Reuse (NRMMC-EPHC-NHMRC, 2009) describes the derivation of these criteria in terms of LRVs and also lists default LRV values for a range of engineered treatments. These accepted default LRV tables can be then used along with catchment specific knowledge where possible exposure controls are used to determine the required level of treatment for pathogens. For example, Page et al. (2012) reported that risks from viruses have the highest required LRV targets and if they are met then protozoan and bacterial LRV targets will also be met. It was reported that for open space irrigation requires <2.0 LRV is sufficient for stormwater recycled via an aquifer and this can potentially be managed using chlorination and exposure controls. However, if in the same system where stormwater is recycled via an aquifer were to be used for drinking water, a LRV of 5.5 would be required to manage human health risks from viruses (Page et al., 2014c). Generally these default LRVs apply where there has been no stormwater catchment-specific assessment of the health risks posed by the quality of the stormwater. Where such a site specific risk assessment has been performed, alternative treatment could be adopted (e.g., lower LRV targets may be adopted where microbial source tracking has found negligible sewage contamination in a catchment).

8. Research gaps and conclusions

- Monitoring of FIB in stormwater may not be useful unless synergistically used with MST marker genes such as HF183, crAssphage or Lachno3 which are able to differentiate between sources of fecal contamination. This will provide additional information on the human health risks associated with stormwater from point and non-point sources of fecal contamination. Identifying and quantifying sources of human sewage in stormwater is most important followed by cattle due to the presence of a wide array of enteric viruses and zoonotic pathogens in these sources.
- The concentration of pathogens in stormwater, outfalls and receiving environmental waters can be high, especially in urban areas. Monitoring of traditional FIB takes 24–48 h and does not provide real-time information on the quality of recreational water. This is important from a human health perspective. Swimming area closure causes economic losses. Therefore, it is recommended that a rapid pathogen monitoring toolbox and standardized methods need to be developed that are able to quantify a number of reference pathogens in waterbodies with increased accuracy, reliability, and less technical training under various conditions. The toolbox can be used either in the laboratory or in the field to provide a rapid assessment whether the stormwater from a particular storm event presents a hazard to public health.
- Most of the stormwater quality monitoring studies focused on determining the concentrations of pathogens in urban stormwater. However, more data is required on the concentration of pathogens in stormwater sourced from a range of land uses. While sewage discharges are relatively well characterized, there remain gaps in our understanding of runoff from nonpoint sources. More studies are required to determine the concentrations of zoonotic pathogens in stormwater.
- Fecal contamination in stormwater is largely dependent on the land uses and mostly include sewage, septicage and various animal feces. Therefore it is imperative to determine the sources of contamination. This will in turn provide a basis for cost-effective remediation and information on the immediate human health risks in stormwater impacted waters. Currently used FIB monitoring approaches are inadequate due to their presence in both human and animal feces. An MST toolbox comprised of various human and animal feces-associated marker genes needs to be employed which will allow managers to quickly identify the relative contribution of point and non-point sources of fecal contamination.
- The quality of stormwater in terms of microbial contaminants is poorly understood. Microbial risk will be the dominant acute health risks on stormwater reuse due to the risk of waterborne pathogens (Hrudey and Hrudey, 2014). However, in some cases, chemical risks may be the driving health concern and relationships between multi-contaminant exposures should be explored. Few QMRA studies addressing potable and non-potable exposures to stormwater were available. Most of the QMRA studies are based on conservative assumptions. More data are required on the concentrations of pathogens and recovery from water samples across sites and stormwater hydrographs. In addition, improved understanding of the influence of catchment characteristics and baseline levels of pathogens, meteorological factors, and decay of pathogens is required for accurate QMRA estimates.
- Different types of WSUD and BMPs are able to reduce microbial contamination, however, reliable information is still lacking on the performance of these treatment barriers. Standardized natural treatment validation protocol needs to be developed. Most studies determined the efficacy of WSUD or BMPs on the removal of microorganisms using FIB, while one or two studies investigated the LRVs of protozoa pathogens such as *Cryptosporidium* spp. or *Giardia* spp. Given the differences in size and characteristics of different groups of pathogens, it is unlikely that FIB LRVs will be representative for pathogens especially enteric viruses. Therefore, studies should focus on determining the removal of enteric viruses and other pathogens (i.e., bacterial and protozoans) of interest to determine the removal rates through different types of WSUD and BMPs, simultaneously. These data will be important for evaluating the effectiveness of WSUD/BMPs for reducing microbial contaminants in the receiving environments and can support improved QMRA models. The evaluation will focus not only on the performance of individual component of WSUD/BMPs but also on a series of different types of BMPs.
- Little is known regarding the decay of pathogens in stormwater or outfalls, and the relative differences in persistence between FIB, pathogens, and host-associated markers. As stormwater becomes aged,

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Table 4
Percentage of log reduction values (LRVs) of FIB and pathogens through WSUD.

WSUD approach	Study description	Location (climate)	Development setting	FIB and pathogens (influent concentrations)	% or Log Reduction Value(LRVs)	Notes and Reference
Retention ponds	Experimental testing of retention pond to investigate environmental mechanisms that influence microbial removal efficiency	Edison, N.J. USA (humid continental)	Experimental design with prepared bacterially loaded stormwater	<i>E. coli</i> (approx. 5.30 log ₁₀ CFU/100 mL)	1	Highlights importance of detention time, where concentration decreases exponentially with time (up to 50 h residence) Struck et al., 2008
	A wet pond monitored as part of a WSUD (BMPs) pilot evaluation (waterfowl freq. observed)	North Carolina, USA (humid subtropical)	Residential catchment of 48.6 ha	<i>E. coli</i> (3.95 log ₁₀ CFU/100 mL) Fecal coliform (3.32 log ₁₀ CFU/100 mL)	0.26 0.52	Log reduction value from geometric mean of influent and effluent samples Hathaway et al., 2009
Constructed wetland	Constructed wetland monitored as part of a WSUD (BMPs) pilot evaluation	North Carolina, USA (humid subtropical)	Residential catchment of 6.4 ha	<i>E. coli</i> (3.98 log ₁₀ CFU/100 mL) Fecal coliform (3.38 log ₁₀ CFU/100 mL)	0.18 0.35	Log reduction value from geometric mean of influent and effluent samples Hathaway et al., 2009
	Secondary treated sewage flows into duckweed pond followed (6 days HRT) followed by subsurface flow wetland (3.8 days HRT)	Arizona (very hot summers and mild winters)	Secondary treated sewage flows into duckweed pond followed by subsurface flow wetland	<i>Giardia</i> (1.14 log ₁₀ cysts/100 L) Coliphage (2.39 log ₁₀ PFU/mL) Fecal coliforms (3.86 log ₁₀ CFU/100 mL)	87% 95% 98%	subsurface flow wetland cells have a maximum depth of 1.4 m and are 61 m long and 8.2 m wide, planted with <i>Typha domingensis</i> , <i>Scirpus olneyi</i> , and <i>Populus fremontii</i> , total HRT of 10 days Thurston et al., 2001
Trickling filter process treated sewage flows into surface flow wetland	Trickling filter process treated sewage flows into surface flow wetland	Arizona (very hot summers and mild winters)	Urban sewage	Adenovirus (2.79–5.17 log ₁₀ GC/L)	<1	The wetlands ~0.03 km ² in size, consisting of planted bulrush and cattails, 7 days HRT, removal calculated from inflow and outflow virus data Rachmadi et al., 2016
	Surface flow wetland, where outflow is harvested, where it undergoes comprehensive treatment train, then used for non-potable uses. This study reports on pathogen reductions from wetland inflow to outflow	Melbourne, Australia (temperate)	Mixed-use catchment of 1020 ha mostly low-density residential (23% impervious)	<i>Campylobacter</i> spp. (2.23–2.99 log ₁₀ MPN/L) <i>E. coli</i> (2.60–4.00 log ₁₀ MPN/L)	0.05 0.96	<i>E. coli</i> found to poor indicator for <i>Campylobacter</i> as a reference pathogen Direct fecal deposition by waterfowl feces was a microbial source to stormwater wetlands, and explained variable results. Meng et al., 2018
Biofilter	Stormwater harvesting scheme that supplements irrigation water to suburban golf club	Melbourne, Australia (temperate)	SW collected from 17 ha residential catchment (70% impervious)	<i>Campylobacter</i> spp. (1.00 log ₁₀ CFU/L) <i>E. coli</i> (4.79 log ₁₀ CFU/L)	0.78 1.38	Median values with min and max in parentheses Chandrasena et al., 2016
	Field-scale testing system	Melbourne, Australia (temperate)	Treating runoff from 0.5 ha university car park (100% impervious)	<i>Campylobacter</i> spp. (1.47 log ₁₀ CFU/L) <i>E. coli</i> (5.30 log ₁₀ CFU/L)	0.90 1.18	Median values with min and max in parentheses Chandrasena et al., 2016
Laboratory experimental set-up	Laboratory experimental set-up	Melbourne, Australia (temperate)	Water taken from nearby wetland, then dosed with pathogen seed cultures	<i>Clostridium perfringens</i> (3.79 log ₁₀ CFU/100 mL) <i>E. coli</i> (4.95 log ₁₀ CFU/100 mL)	3.20 1.30	Mean values for all sampling runs. Performance was significantly reduced for samples taken following dry period compared to wet periods. Li et al., 2012

pathogens will start to decay and as a result, the human health risks will also decrease. Studies should focus on determining the decay of pathogens in stormwater and outfalls or recreational water contaminated with stormwater. *In-situ* decay studies are preferable over laboratory microcosm studies where it is difficult to mimic real world scenarios.

9. Conclusions

Stormwater reuse can contribute to water conservation and water quality improvement and be a great water source to meet the ever-increasing demand on water supplies. However, human and environmental health risks associated with stormwater need to be assessed carefully. This is due to the presence of fecal pollution and associated pathogen in stormwater that are capable of causing illnesses in humans.

The research gaps discussed in this paper and other uncertainties associated with the performance of stormwater treatment systems need to be investigated. Health risks can be assessed using a QMRA analysis, thus facilitating decision-making and risk management efforts. This may, in turn, increase the confidence of regulators and public health managers for adopting stormwater practice widely.

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Downloaded from National Institute of Health a U. S. Government Website

Exhibit “D”

Re: Hearing Examiner Case Number: HE-25-PL-027

Failure to Disclose: The existence of privately owned livestock in North Chuckanut Bay. See page 3 of 16 of the attached JARPA Permit.

Exhibit “D” clarifies the ownership of livestock (Live Oysters and their offspring) which were placed in North Chuckanut Bay in 2018.

Exhibit “D” contains the following:

1. **Email cover sheet from Cindy Coffelt, Permit Clerk, of the Planning & Community Department. This email was provided in response to a public records request.**
 - a. **Copy of JARPA Permit: Authorized “a designated use in water” per the requirements of the Clean Water Act. In this instant case, the designated use was the placement of MRC owned livestock (Live Juvenile Olympia Oyster Spat) in the waters of North Chuckanut Bay.**
 - b. **Copy of City of Bellingham Shoreline Use Permit: Authorized the placement of MRC owned livestock (Live Juvenile Olympia Oyster Spat) in a city tide flat park.**
2. **The following Snippet is from:**

Page 4 of a copy of “Oly oysters MRC notes.pdf”.

- a. **This snippet indicates the MRC purchased the “livestock” from the Puget Sound Restoration Fund. This information was provided to the Planning Department for the benefit of the Planning Department.**



information on feasibility of restoration in the seven habitat patches identified.

The MRC purchased 35 bags of seed on Pacific Oyster shell from the Puget Sound Restoration Fund (PSRF). Each bag had a minimum of 250 shells and 3-5 spat

(or seed). On May 11, 2017, the bags were delivered to Whatcom MRC members and placed at a secure location in Fidalgo Bay for overwintering (Figure B), as suggested by PSRF staff and Dr. Paul Dinnel, who has led Olympia oyster restoration projects for the Skagit MRC. The MRC aims to deploy the seed in Chuckanut Bay by Spring 2018. The actual restoration design if pursued would attempt to address any factors identified from the test plot results that may limit success. Identifying those potential limiting factors ahead of time will be very helpful when evaluating what is observed from the

2018 JARPA Permit and Shoreline Use Permit info for the placement of MRC owned livestock (Live Olympia Oysters Spat) in North Chuckanut Bay.

1. The following email was provided in response to a public records request.
2. This email provided copies of the “issued permits” and a copy of Whatcom County Marine Resource Committee document “**Oly oysters MRC notes.pdf**”.

DCLongwell

From: Cindy L Coffelt <clcoffelt@cob.org>
Sent: Wednesday, August 20, 2025 11:40 AM

Subject: SHR2018-0010
Attachments: SHR2018-0010.pdf; OLY oysters JARPA.pdf; OLY oysters MRC notes.pdf; SHR2018-0010 EXEMPTION APPROVAL.pdf

Find Additional Permit Center Resources at: <https://www.cob.org/services/permits>

The Permit Center is open for in-person services during the following hours:
Mon, Tues, Thurs 8:30am – 3:30pm/Wed: 9:30am – 3:30pm/Fri: Closed to in-person services
We are available by phone 360.778.8300 and email permits@cob.org Mon-Fri 8am-5pm and eTRAKIT portal <https://permits.cob.org/etrakit> 24/7.

Cindy Coffelt
Permit Clerk
Planning and Community Development
360-778-8309
clcoffelt@cob.org

The logo for the City of Bellingham, Washington. It features a stylized mountain peak on the left and a rainbow-colored sunburst or wave pattern on the right. The text "City of" is in a small font above "Bellingham" in a large, bold, blue serif font. Below "Bellingham" is the word "WASHINGTON" in a smaller, colorful font.

[Tell us how we're doing!](#)
[Permit Center survey](#)

Please note: My incoming and outgoing email messages are subject to public disclosure requirements per RCW 42.56

See page 1 of 20 of Exhibit “D” for a Snippet of page 4 of:

- **Oly oysters MRC notes.pdf**

This Snippet clarifies: The MRC purchased their livestock from the Puget Sound Restoration Fund.

There are no indications of transfer or grant of ownership of MRC owned livestock (Live Olympia Oysters or their offspring) to The Woods at Viewcrest permit applicant (The Jones Family) or to the City of Bellingham on this page.

 <p>WASHINGTON STATE Joint Aquatic Resources Permit Application (JARPA) Form^{1,2} [help]</p> <p>USE BLACK OR BLUE INK TO ENTER ANSWERS IN THE WHITE SPACES BELOW.</p>		 <p>AGENCY USE ONLY</p> <p>Date received: _____</p> <p>Agency reference #: _____</p> <p>Tax Parcel #(s): _____ _____</p>																		
<p>Part 1—Project Identification</p> <table border="1"><tr><td>1. Project Name (A name for your project that you create. Examples: Smith's Dock or Seabrook Lane Development) [help]</td></tr><tr><td>North Chuckanut Bay Pilot Olympia Oyster Restoration Project</td></tr></table> <p>Part 2—Applicant</p> <p>The person and/or organization responsible for the project. [help]</p> <table border="1"><tr><td>2a. Name (Last, First, Middle)</td></tr><tr><td>Austin Rose</td></tr><tr><td>2b. Organization (if applicable)</td></tr><tr><td>Whatcom County Marine Resources Committee</td></tr><tr><td>2c. Mailing Address (Street or PO Box)</td></tr><tr><td>322 N. Commercial St.</td></tr><tr><td>2d. City, State, Zip</td></tr><tr><td>Bellingham, WA 98225-4042</td></tr><tr><td>2e. Phone (1)</td><td>2f. Phone (2)</td><td>2g. Fax</td><td>2h. E-mail</td></tr><tr><td>360-778-6286</td><td></td><td></td><td>arose@co.whatcom.wa.us</td></tr></table>			1. Project Name (A name for your project that you create. Examples: Smith's Dock or Seabrook Lane Development) [help]	North Chuckanut Bay Pilot Olympia Oyster Restoration Project	2a. Name (Last, First, Middle)	Austin Rose	2b. Organization (if applicable)	Whatcom County Marine Resources Committee	2c. Mailing Address (Street or PO Box)	322 N. Commercial St.	2d. City, State, Zip	Bellingham, WA 98225-4042	2e. Phone (1)	2f. Phone (2)	2g. Fax	2h. E-mail	360-778-6286			arose@co.whatcom.wa.us
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2e. Phone (1)	2f. Phone (2)	2g. Fax	2h. E-mail																	
360-778-6286			arose@co.whatcom.wa.us																	

¹Additional forms may be required for the following permits:

- If your project may qualify for Department of the Army authorization through a Regional General Permit (RGP), contact the U.S. Army Corps of Engineers for application information (206) 764-3495.
- If your project might affect species listed under the Endangered Species Act, you will need to fill out a Specific Project Information Form (SPIF) or prepare Biological Evaluation. Forms can be found at <http://www.nws.usace.army.mil/Missions/CivilWorks/Regulatory/PermitGuidebook/EndangeredSpecies.aspx>.
- Not all cities and counties accept the JARPA for their local Shoreline permits. If you need a Shoreline permit, contact the appropriate city or county government to make sure they accept the JARPA.

²To access an online JARPA form with [help] screens, go to http://www.epermitting.wa.gov/site/alias_resourcecenter/jarpa_jarpa_form/9984/jarpa_form.aspx.

For other help, contact the Governor's Office for Regulatory Innovation and Assistance at (800) 917-0043 or help@oria.wa.gov.

ORIA-16-011

Page 1 of 16

There are no indications of transfer or grant of ownership of MRC owned livestock (Live Olympia Oysters or their offspring) to The Woods at Viewcrest permit applicant (The Jones Family) or to the City of Bellingham on this page.

Part 3–Authorized Agent or Contact

Person authorized to represent the applicant about the project. (Note: Authorized agent(s) must sign 11b of this application.) [\[help\]](#)

3a. Name (Last, First, Middle)			
Rose, Austin			
3b. Organization (If applicable)			
Whatcom County Public Works			
3c. Mailing Address (Street or PO Box)			
322 N. Commercial St.			
3d. City, State, Zip			
Bellingham, WA 98225-4042			
3e. Phone (1)	3f. Phone (2)	3g. Fax	3h. E-mail
360-778-6286			arose@co.whatcom.wa.us

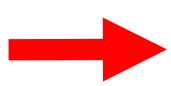
Part 4–Property Owner(s)

Contact information for people or organizations owning the property(ies) where the project will occur. Consider both **upland and aquatic** ownership because the upland owners may not own the adjacent aquatic land. [\[help\]](#)

- Same as applicant. (Skip to Part 5.)
- Repair or maintenance activities on existing rights-of-way or easements. (Skip to Part 5.)
- There are multiple upland property owners. Complete the section below and fill out JARPA Attachment A for each additional property owner.
- Your project is on Department of Natural Resources (DNR)-managed aquatic lands. If you don't know, contact the DNR at (360) 902-1100 to determine aquatic land ownership. If yes, complete JARPA Attachment E to apply for the Aquatic Use Authorization.

4a. Name (Last, First, Middle)			
n/a			
4b. Organization (If applicable)			
City of Bellingham Finance Dept.- Asset Division			
4c. Mailing Address (Street or PO Box)			
210 Lottie St.			
4d. City, State, Zip			
Bellingham, WA 98225-4009			
4e. Phone (1)	4f. Phone (2)	4g. Fax	4h. E-mail

There are no indications of transfer or grant of ownership of MRC owned livestock (Live Olympia Oysters or their offspring) to The Woods at Viewcrest permit applicant (The Jones Family) or to the City of Bellingham on this page.

 The Woods at Viewcrest permit applicant (The Jones Family) “Failure to Disclose” the existence of MRC owned livestock (Live Olympia Oysters and their offspring) in North Chuckanut Bay. See Box 5h below.

Part 5—Project Location(s)

Identifying information about the property or properties where the project will occur. [\[help\]](#)

There are multiple project locations (e.g. linear projects). Complete the section below and use [JARPA Attachment B](#) for each additional project location.

5a. Indicate the type of ownership of the property. (Check all that apply.) [\[help\]](#)

- Private
- Federal
- Publicly owned (state, county, city, special districts like schools, ports, etc.)
- Tribal
- Department of Natural Resources (DNR) – managed aquatic lands (Complete [JARPA Attachment E](#))

5b. Street Address (Cannot be a PO Box. If there is no address, provide other location information in 5p.) [\[help\]](#)

5c. City, State, Zip (If the project is not in a city or town, provide the name of the nearest city or town.) [\[help\]](#)

Bellingham, WA

5d. County [\[help\]](#)

Whatcom

5e. Provide the section, township, and range for the project location. [\[help\]](#)

¼ Section	Section	Township	Range
	13	T37N	R02E

5f. Provide the latitude and longitude of the project location. [\[help\]](#)

- Example: 47.03922 N lat. / -122.89142 W long. (Use decimal degrees - NAD 83)

48.699142, -122.50408

5g. List the tax parcel number(s) for the project location. [\[help\]](#)

- The local county assessor's office can provide this information.

3702131514090000

5h. Contact information for all adjoining property owners. (If you need more space, use [JARPA Attachment C](#).) [\[help\]](#)

Name	Mailing Address	Tax Parcel # (if known)
Lori L. Lawler	P.O. Box 885 Granite Falls, WA 98252-0885	370213017397
Elizabeth A. & Susan H. Jones	807 Chuckanut Shore Rd. Bellingham, WA 98229-8925	370213083499
Edward P. McAllister	608 E. Galloway Ave. Weiser, ID 83672-1424	370213112500
Ann C. Jones Family	807 Chuckanut Shore Rd. Bellingham, WA 98229-8925	370213113550

There are no indications of transfer or grant of ownership of MRC owned livestock (Live Olympia Oysters or their offspring) to The Woods at Viewcrest permit applicant (The Jones Family) or to the City of Bellingham on this page.

5i. List all wetlands on or adjacent to the project location. [help]
Chuckanut Village Marsh, Chuckanut Creek Marsh
5j. List all waterbodies (other than wetlands) on or adjacent to the project location. [help]
Chuckanut Bay (Mud Bay), Chuckanut Creek (adjacent to)
5k. Is any part of the project area within a 100-year floodplain? [help]
<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Don't know
5l. Briefly describe the vegetation and habitat conditions on the property. [help]
North Chuckanut Bay is characterized as mostly mud/sand/silt mixture. Barnacles, oysters, clams, snails, mussels, and sand dollars can be found in the project area, with some areas heavily covered by these organisms while others very sparse. Eelgrass can be found at sites closer to the trestle. Macroalgae can cover the bay at low tides, but is ephemeral and is not a dominate presence.
5m. Describe how the property is currently used. [help]
N Chuckanut Bay is a rich and biologically diverse estuary within Bellingham city limits. Visitors to the area enjoy birding, beach walks, wildlife, shoreline geology, botanical observation, and shellfish gathering as allowed within State permit and Health regulations.
5n. Describe how the adjacent properties are currently used. [help]
The South Hill and Edgemoor neighborhoods are located to the north of the bay. Woodstock Farm Park, owned by the City of Bellingham, lies south of the bay.
5o. Describe the structures (above and below ground) on the property, including their purpose(s) and current condition. [help]
n/a
5p. Provide driving directions from the closest highway to the project location, and attach a map. [help]
From I5 North, take exit 250, head west on Old Fairhaven Parkway. Take a left of 30 th St. and follow to Old Samish Rd., take a right. Heading north on Old Samish Rd. merges with Chuckanut Drive. Turn west off Chuckanut Drive (SR11) at 21st Street behind the Chuckanut Bay Art and Sculpture Gallery and then immediately turn west (right) on Fairhaven Avenue. Proceed straight to the shoreline of the bay.

There are no indications of transfer or grant of ownership of MRC owned livestock (Live Olympia Oysters or their offspring) to The Woods at Viewcrest permit applicant (The Jones Family) or to the City of Bellingham on this page.

Part 6—Project Description

6a. Briefly summarize the overall project. You can provide more detail in 6b. [\[help\]](#)

WDFW identified N. Chuckanut Bay as an ideal area for establishing a population of native oysters given the existing habitat conditions. A field evaluation was conducted in 2016, and seven test (pilot) plots were identified. The test plots are not intended as restoration themselves but only to provide information on feasibility of restoration in the seven habitat patches identified. The MRC purchased Olympia Oyster seed from the Puget Sound Restoration Fund and hope to place the seed in N. Chuckanut Bay by Spring 2018

6b. Describe the purpose of the project and why you want or need to perform it. [\[help\]](#)

Marine Resources Committees, in partnership with multiple organizations, are working to restore native Olympia oyster populations in their historic range in the Northwest Straits region. Native oyster beds create complex, three-dimensional habitat for invertebrates and small fishes and foraging locations for larger animals. Filter-feeding bivalves such as Olympia oysters feed on phytoplankton by filtering large volumes of water thereby improving water quality, removing pollutants and nutrients from the water column, and maintaining the water clarity necessary for eelgrass and kelp growth. Restoration and enhancement of this foundation species will provide significant benefits throughout the Northwest Straits marine ecosystem. Historic middens indicate past populations of Olympia oysters in N. Chuckanut Bay, but none are known to be present today.

6c. Indicate the project category. (Check all that apply) [\[help\]](#)

- | | | | | |
|--------------------------------------|---|--|---|---------------------------------------|
| <input type="checkbox"/> Commercial | <input type="checkbox"/> Residential | <input type="checkbox"/> Institutional | <input type="checkbox"/> Transportation | <input type="checkbox"/> Recreational |
| <input type="checkbox"/> Maintenance | <input checked="" type="checkbox"/> Environmental Enhancement | | | |

6d. Indicate the major elements of your project. (Check all that apply) [\[help\]](#)

<input checked="" type="checkbox"/> Aquaculture	<input type="checkbox"/> Culvert	<input type="checkbox"/> Float	<input type="checkbox"/> Retaining Wall (upland)
<input type="checkbox"/> Bank Stabilization	<input type="checkbox"/> Dam / Weir	<input type="checkbox"/> Floating Home	<input type="checkbox"/> Road
<input type="checkbox"/> Boat House	<input type="checkbox"/> Dike / Levee / Jetty	<input type="checkbox"/> Geotechnical Survey	<input type="checkbox"/> Scientific Measurement Device
<input type="checkbox"/> Boat Launch	<input type="checkbox"/> Ditch	<input type="checkbox"/> Land Clearing	<input type="checkbox"/> Stairs
<input type="checkbox"/> Boat Lift	<input type="checkbox"/> Dock / Pier	<input type="checkbox"/> Marina / Moorage	<input type="checkbox"/> Stormwater facility
<input type="checkbox"/> Bridge	<input type="checkbox"/> Dredging	<input type="checkbox"/> Mining	<input type="checkbox"/> Swimming Pool
<input type="checkbox"/> Bulkhead	<input type="checkbox"/> Fence	<input type="checkbox"/> Outfall Structure	<input type="checkbox"/> Utility Line
<input type="checkbox"/> Buoy	<input type="checkbox"/> Ferry Terminal	<input type="checkbox"/> Piling/Dolphin	
<input type="checkbox"/> Channel Modification	<input type="checkbox"/> Fishway	<input type="checkbox"/> Raft	

- Other:

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6e. Describe how you plan to construct each project element checked in 6d. Include specific construction methods and equipment to be used. [\[help\]](#)

- Identify where each element will occur in relation to the nearest waterbody.
- Indicate which activities are within the 100-year floodplain.

35 bags of seed on shell will be distributed within six test plots, each a 20'x20' square in size. Shell will not be placed within the seventh test plot as it will act as a reference site and will be monitored to see if there is any distribution of seed on native substrate. Each bag of seed has a minimum of 250 shells per bag and 3-5 spat or seed per shell. The seed used for the test plots will be on Pacific oyster shell and will be fairly robust from over-wintering in Fidalgo Bay; this also provides protection from trampling. Shell will be scattered evenly within plots at low tide, and routinely monitored for predators or other problems. The test plot area is located within a Special Flood Hazard Area (SFHA) or specifically Flood Zone "A" with a Community Determined Base Flood Elevation (BFE) of 12.0 feet (NAVD88).

6f. What are the anticipated start and end dates for project construction? (Month/Year) [\[help\]](#)

- If the project will be constructed in phases or stages, use [JARPA Attachment D](#) to list the start and end dates of each phase or stage.

Start Date: April 2018 End Date: ? April 2023 See JARPA Attachment D

6g. Fair market value of the project, including materials, labor, machine rentals, etc. [\[help\]](#)

Approx. \$10,000

6h. Will any portion of the project receive federal funding? [\[help\]](#)

- If yes, list each agency providing funds.

Yes No Don't know (Environmental Protection Agency)

Part 7—Wetlands: Impacts and Mitigation

Check here if there are wetlands or wetland buffers on or adjacent to the project area.
(If there are none, skip to Part 8.) [\[help\]](#)

7a. Describe how the project has been designed to avoid and minimize adverse impacts to wetlands. [\[help\]](#)

Not applicable

The project does not impact the wetlands. Wetlands are adjacent to Chuckanut Bay. All activities are located within the marine waters and tidelands of the bay.

7b. Will the project impact wetlands? [\[help\]](#)

Yes No Don't know

7c. Will the project impact wetland buffers? [\[help\]](#)

Yes No Don't know

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<p>7d. Has a wetland delineation report been prepared? [help]</p> <ul style="list-style-type: none"> • If Yes, submit the report, including data sheets, with the JARPA package. <p><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p>																																																							
<p>7e. Have the wetlands been rated using the Western Washington or Eastern Washington Wetland Rating System? [help]</p> <ul style="list-style-type: none"> • If Yes, submit the wetland rating forms and figures with the JARPA package. <p><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Don't know</p>																																																							
<p>7f. Have you prepared a mitigation plan to compensate for any adverse impacts to wetlands? [help]</p> <ul style="list-style-type: none"> • If Yes, submit the plan with the JARPA package and answer 7g. • If No, or Not applicable, explain below why a mitigation plan should not be required. <p><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Don't know</p>																																																							
<p>As noted above, wetlands are not impacted by the project therefore no mitigation plan is required.</p>																																																							
<p>7g. Summarize what the mitigation plan is meant to accomplish, and describe how a watershed approach was used to design the plan. [help]</p> <p>Not applicable.</p>																																																							
<p>7h. Use the table below to list the type and rating of each wetland impacted, the extent and duration of the impact, and the type and amount of mitigation proposed. Or if you are submitting a mitigation plan with a similar table, you can state (below) where we can find this information in the plan. [help]</p> <table border="1"> <thead> <tr> <th>Activity (fill, drain, excavate, flood, etc.)</th> <th>Wetland Name¹</th> <th>Wetland type and rating category²</th> <th>Impact area (sq. ft. or Acres)</th> <th>Duration of impact³</th> <th>Proposed mitigation type⁴</th> <th>Wetland mitigation area (sq. ft. or acres)</th> </tr> </thead> <tbody> <tr><td></td><td></td><td></td><td></td><td></td><td></td><td></td></tr> <tr><td></td><td></td><td></td><td></td><td></td><td></td><td></td></tr> <tr><td></td><td></td><td></td><td></td><td></td><td></td><td></td></tr> <tr><td></td><td></td><td></td><td></td><td></td><td></td><td></td></tr> <tr><td></td><td></td><td></td><td></td><td></td><td></td><td></td></tr> <tr><td></td><td></td><td></td><td></td><td></td><td></td><td></td></tr> </tbody> </table>							Activity (fill, drain, excavate, flood, etc.)	Wetland Name ¹	Wetland type and rating category ²	Impact area (sq. ft. or Acres)	Duration of impact ³	Proposed mitigation type ⁴	Wetland mitigation area (sq. ft. or acres)																																										
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<p>¹If no official name for the wetland exists, create a unique name (such as "Wetland 1"). The name should be consistent with other project documents, such as a wetland delineation report.</p> <p>²Ecology wetland category based on current Western Washington or Eastern Washington Wetland Rating System. Provide the wetland rating forms with the JARPA package.</p> <p>³Indicate the days, months or years the wetland will be measurably impacted by the activity. Enter "permanent" if applicable.</p> <p>⁴Creation (C), Re-establishment/Rehabilitation (R), Enhancement (E), Preservation (P), Mitigation Bank/In-lieu fee (B)</p>																																																							
<p>Page number(s) for similar information in the mitigation plan, if available: _____</p>																																																							

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7i. For all filling activities identified in 7h, describe the source and nature of the fill material, the amount in cubic yards that will be used, and how and where it will be placed into the wetland. [\[help\]](#)

Not applicable

7j. For all excavating activities identified in 7h, describe the excavation method, type and amount of material in cubic yards you will remove, and where the material will be disposed. [\[help\]](#)

Not applicable.

Part 8–Waterbodies (other than wetlands): Impacts and Mitigation

In Part 8, "waterbodies" refers to non-wetland waterbodies. (See Part 7 for information related to wetlands.) [\[help\]](#)

Check here if there are waterbodies on or adjacent to the project area. (If there are none, skip to Part 9.)

8a. Describe how the project is designed to avoid and minimize adverse impacts to the aquatic environment. [\[help\]](#)

Not applicable

The project is a pilot project to determine if Olympia oyster restoration can be successful at this site. Placement of the shell with spat will enhance the aquatic environment and is supplemental to natural shell that already exists within Chuckanut Bay. Shell will be scattered evenly within plots, each a 20'x20' square in size, at low tide. Each plot will be routinely monitored to quantify abiotic and biotic changes that may occur due to the presence of native oyster beds. It is assumed, based on current knowledge of oyster ecosystem services, that this oyster species will enhance denitrification rates, increase fish and invertebrate abundance and diversity, filter the water column, provide food, and protect coastlines (Blake & Bradbury 2012; PSRF 2009).

8b. Will your project impact a waterbody or the area around a waterbody? [\[help\]](#)

Yes No

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<p>8c. Have you prepared a mitigation plan to compensate for the project's adverse impacts to non-wetland waterbodies? [help]</p> <ul style="list-style-type: none">• If Yes, submit the plan with the JARPA package and answer 8d.• If No, or Not applicable, explain below why a mitigation plan should not be required. <p><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Don't know</p> <p>The project is intended to determine if Olympia oyster restoration is feasible within Chuckanut Bay. An extensive citizen-science monitoring plan will be implemented to gauge success of the project and changes in the habitat structure and function. A draft plan is included as an attachment to this document.</p>																																									
<p>8d. Summarize what the mitigation plan is meant to accomplish. Describe how a watershed approach was used to design the plan.</p> <ul style="list-style-type: none">• If you already completed 7g you do not need to restate your answer here. [help] <p>Not applicable.</p>																																									
<p>8e. Summarize impact(s) to each waterbody in the table below. [help]</p> <table border="1"><thead><tr><th>Activity (clear, dredge, fill, pile drive, etc.)</th><th>Waterbody name¹</th><th>Impact location²</th><th>Duration of impact³</th><th>Amount of material (cubic yards) to be placed in or removed from waterbody</th><th>Area (sq. ft. or linear ft.) of waterbody directly affected</th></tr></thead><tbody><tr><td>Shell placement (fill)</td><td>Chuckanut Bay</td><td>In</td><td>Permanent</td><td>1.46</td><td>Six plots of 400 sq ft each</td></tr><tr><td></td><td></td><td></td><td></td><td></td><td></td></tr><tr><td></td><td></td><td></td><td></td><td></td><td></td></tr><tr><td></td><td></td><td></td><td></td><td></td><td></td></tr><tr><td></td><td></td><td></td><td></td><td></td><td></td></tr></tbody></table>						Activity (clear, dredge, fill, pile drive, etc.)	Waterbody name ¹	Impact location ²	Duration of impact ³	Amount of material (cubic yards) to be placed in or removed from waterbody	Area (sq. ft. or linear ft.) of waterbody directly affected	Shell placement (fill)	Chuckanut Bay	In	Permanent	1.46	Six plots of 400 sq ft each																								
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Shell placement (fill)	Chuckanut Bay	In	Permanent	1.46	Six plots of 400 sq ft each																																				
<p>¹ If no official name for the waterbody exists, create a unique name (such as "Stream 1") The name should be consistent with other documents provided. ² Indicate whether the impact will occur in or adjacent to the waterbody. If adjacent, provide the distance between the impact and the waterbody and indicate whether the impact will occur within the 100-year flood plain. ³ Indicate the days, months or years the waterbody will be measurably impacted by the work. Enter "permanent" if applicable.</p>																																									
<p>8f. For all activities identified in 8e, describe the source and nature of the fill material, amount (in cubic yards) you will use, and how and where it will be placed into the waterbody. [help]</p> <p>The seed used for the test plots will be on Pacific oyster shell and will be fairly robust from over-wintering both of which provides protection from trampling. 35 bags of oyster spat on shell (200-300 shell per bag and approx. 10 spat per shell) provided by the Puget Sound Restoration Fund hatchery will be dispersed within the test plots. 35 bags of shell equal to roughly 1.46 cubic yards. All seven test plots are located within in north end of the bay.</p>																																									
<p>ORIA-16-011</p>																																									
<p>Page 9 of 16</p>																																									

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8g. For all excavating or dredging activities identified in 8e, describe the method for excavating or dredging, type and amount of material you will remove, and where the material will be disposed. [\[help\]](#)

Not applicable.

Part 9—Additional Information

Any additional information you can provide helps the reviewer(s) understand your project. Complete as much of this section as you can. It is ok if you cannot answer a question.

9a. If you have already worked with any government agencies on this project, list them below. [\[help\]](#)

Agency Name	Contact Name	Phone	Most Recent Date of Contact
WA Department of Fish and Wildlife	Brady Blake, Shellfish Biologist	360-302-3030 x301	August, 2017
City of Bellingham	Steve Sundin	360-778-8359	January 2018

9b. Are any of the wetlands or waterbodies identified in Part 7 or Part 8 of this JARPA on the Washington Department of Ecology's 303(d) List? [\[help\]](#)

- If Yes, list the parameter(s) below.
- If you don't know, use Washington Department of Ecology's Water Quality Assessment tools at: <http://www.ecy.wa.gov/programs/wq/303d/>.

Yes No

Chuckanut Creek – bacteria, dissolved oxygen

9c. What U.S. Geological Survey Hydrological Unit Code (HUC) is the project in? [\[help\]](#)

- Go to <http://cfpub.epa.gov/surf/locate/index.cfm> to help identify the HUC.

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17110004
9d. What Water Resource Inventory Area Number (WRIA #) is the project in? [help] • Go to http://www.ecy.wa.gov/water/wria/index.html to find the WRIA #.
WRIA 1
9e. Will the in-water construction work comply with the State of Washington water quality standards for turbidity? [help] • Go to http://www.ecy.wa.gov/programs/wq/swqs/criteria.html for the standards.
<input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> Not applicable
9f. If the project is within the jurisdiction of the Shoreline Management Act, what is the local shoreline environment designation? [help] • If you don't know, contact the local planning department. • For more information, go to: http://www.ecy.wa.gov/programs/sea/sma/laws_rules/173-26/211_designations.html .
<input checked="" type="checkbox"/> Urban <input checked="" type="checkbox"/> Natural <input type="checkbox"/> Aquatic <input type="checkbox"/> Conservancy <input type="checkbox"/> Other: _____
9g. What is the Washington Department of Natural Resources Water Type? [help] • Go to http://www.dnr.wa.gov/forest-practices-water-typing for the Forest Practices Water Typing System.
<input checked="" type="checkbox"/> Shoreline <input type="checkbox"/> Fish <input type="checkbox"/> Non-Fish Perennial <input type="checkbox"/> Non-Fish Seasonal
9h. Will this project be designed to meet the Washington Department of Ecology's most current stormwater manual? [help] • If No, provide the name of the manual your project is designed to meet.
<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Name of manual: _____
9i. Does the project site have known contaminated sediment? [help] • If Yes, please describe below.
<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
9j. If you know what the property was used for in the past, describe below. [help]
Historic use of the bay for fishing or tribal use is not known.

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9k. Has a cultural resource (archaeological) survey been performed on the project area? [\[help\]](#)

• If Yes, attach it to your JARPA package.

Yes No

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<p>9I. Name each species listed under the federal Endangered Species Act that occurs in the vicinity of the project area or might be affected by the proposed work. [help]</p>			
Fish Species ESU/DPS	ESA Listing Status/Date	ESA Critical Habitat	Jurisdiction
Coastal/Puget Sound Bull Trout (<i>Salvelinus confluentus</i>)	Threatened November 1, 1999 (64 FR 58910)	Designated: September 26, 2005 (70 FR 56212) Revised Final Rule: October 18, 2010 (75 FR 63898)	U.S Fish and Wildlife Service (USFWS)
Puget Sound Steelhead (Rainbow Trout) (<i>Oncorhynchus mykiss</i>)	Threatened May 11, 2007 (72 FR 26722)	Designated: September 2, 2005 (70 FR 52630)	NOAA Fisheries & National Marine Fisheries Service (NMFS)
	Updated April 14, 2014 (79 FR 20802)	February 24, 2016 (81 FR 9252) Not Applicable to Action Area	
Puget Sound Chinook Salmon (<i>Oncorhynchus tshawytscha</i>)	Threatened June 28, 2005 (70 FR 37160)	Designated: September 2, 2005 (70 FR 52630)	
	Updated April 14, 2014 (79 FR 20802)		
Puget Sound/Georgia Basin DPS of Bocaccio (<i>Sebastes paucispinis</i>)	Endangered April 28, 2010 (75 FR 22276) Effective July 27, 2010		NOAA Fisheries & National Marine Fisheries Service (NMFS)
Puget Sound/Georgia Basin DPS of Yelloweye Rockfish (<i>Sebastes ruberrimus</i>)	Threatened April 28, 2010 (75 FR 22276) Effective July 27, 2010	Designated: November 13, 2014 (79 FR 68042) Effective: February 11, 2015	
Puget Sound/Georgia Basin DPS of Canary Rockfish (<i>Sebastes pinniger</i>)	Threatened* April 28, 2010 (75 FR 22276) Effective July 27, 2010 Proposed for removal from ESA listing 2016 (81 FR 42979) July 6, 2016		
Southern DPS of Eulachon (<i>Thaleichthys pacificus</i>)	Threatened March 18, 2010 (75 FR 13012)	Designated: October, 20, 2011 (FR 76 65324) Not Applicable to Action Area	
Southern DPS of Green Sturgeon (<i>Acipenser medirostris</i>)	Threatened April 7, 2006 (71 FR 17757)	Designated: October 9, 2009 (74 FR 52300) Not Applicable to Action Area	
<p>Birds:</p>			
Marbled murrelet (<i>Brachyramphus marmoratus</i>)	Threatened October 1, 1992 (57 FR 45328)	Revised Final Rule October 5, 2011 (76 FR 61599) Designated: May 24, 1996 (61 FR 26255) Not Applicable to the Site	USFWS
<p>9m. Name each species or habitat on the Washington Department of Fish and Wildlife's Priority Habitats and Species List that might be affected by the proposed work. [help]</p>			

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Hardshell clam
Shorebird concentrations
Estuarine and marine wetlands

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Part 10—SEPA Compliance and Permits

Use the resources and checklist below to identify the permits you are applying for.

- Online Project Questionnaire at <http://apps.oria.wa.gov/opus/>.
- Governor's Office for Regulatory Innovation and Assistance at (800) 917-0043 or help@oria.wa.gov.
- For a list of addresses to send your JARPA to, click on [agency addresses for completed JARPA](#).

10a. Compliance with the State Environmental Policy Act (SEPA). (Check all that apply.) [help]	
<input type="checkbox"/> For more information about SEPA, go to www.ecy.wa.gov/programs/sea/sepa/e-review.html .	
<input checked="" type="checkbox"/> A copy of the SEPA determination or letter of exemption is included with this application.	
<input checked="" type="checkbox"/> A SEPA determination is pending with <u>City of Bellingham</u> (lead agency). The expected decision date is _____.	
<input type="checkbox"/> I am applying for a Fish Habitat Enhancement Exemption. (Check the box below in 10b.) [help]	
<input type="checkbox"/> This project is exempt (choose type of exemption below). <input type="checkbox"/> Categorical Exemption. Under what section of the SEPA administrative code (WAC) is it exempt? _____	
<input type="checkbox"/> Other: _____	
<input type="checkbox"/> SEPA is pre-empted by federal law.	
10b. Indicate the permits you are applying for. (Check all that apply.) [help]	
LOCAL GOVERNMENT	
Local Government Shoreline permits:	
<input type="checkbox"/> Substantial Development <input type="checkbox"/> Conditional Use <input type="checkbox"/> Variance	
<input checked="" type="checkbox"/> Shoreline Exemption Type (explain): _____	
Other City/County permits:	
<input type="checkbox"/> Floodplain Development Permit <input type="checkbox"/> Critical Areas Ordinance	
STATE GOVERNMENT	
Washington Department of Fish and Wildlife:	
<input checked="" type="checkbox"/> Hydraulic Project Approval (HPA) <input type="checkbox"/> Fish Habitat Enhancement Exemption – Attach Exemption Form	
Washington Department of Natural Resources:	
<input type="checkbox"/> Aquatic Use Authorization Complete JARPA Attachment E and submit a check for \$25 payable to the Washington Department of Natural Resources. <u>Do not send cash.</u>	
Washington Department of Ecology:	
<input checked="" type="checkbox"/> Section 401 Water Quality Certification	
FEDERAL GOVERNMENT	
United States Department of the Army permits (U.S. Army Corps of Engineers):	
<input checked="" type="checkbox"/> Section 404 (discharges into waters of the U.S.) <input checked="" type="checkbox"/> Section 10 (work in navigable waters)	
United States Coast Guard permits:	
<input type="checkbox"/> General Bridge Act Permit <input type="checkbox"/> Private Aids to Navigation (for non-bridge projects)	

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This page includes the signature of Kelli Linville, Bellingham Mayor.

Part 11—Authorizing Signatures

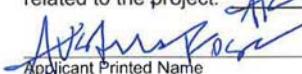
Signatures are required before submitting the JARPA package. The JARPA package includes the JARPA form, project plans, photos, etc. [\[help\]](#)

11a. Applicant Signature (required) [\[help\]](#)

I certify that to the best of my knowledge and belief, the information provided in this application is true, complete, and accurate. I also certify that I have the authority to carry out the proposed activities, and I agree to start work only after I have received all necessary permits.

I hereby authorize the agent named in Part 3 of this application to act on my behalf in matters related to this application.  (initial)

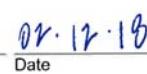
By initialing here, I state that I have the authority to grant access to the property. I also give my consent to the permitting agencies entering the property where the project is located to inspect the project site or any work related to the project.  (initial)



Applicant Printed Name



Applicant Signature



Date

11b. Authorized Agent Signature [\[help\]](#)

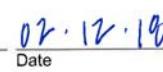
I certify that to the best of my knowledge and belief, the information provided in this application is true, complete, and accurate. I also certify that I have the authority to carry out the proposed activities and I agree to start work only after all necessary permits have been issued.



Authorized Agent Printed Name



Authorized Agent Signature



Date

11c. Property Owner Signature (if not applicant) [\[help\]](#)

Not required if project is on existing rights-of-way or easements (provide copy of easement with JARPA).

I consent to the permitting agencies entering the property where the project is located to inspect the project site or any work. These inspections shall occur at reasonable times and, if practical, with prior notice to the landowner.



Property Owner Printed Name



Property Owner Signature

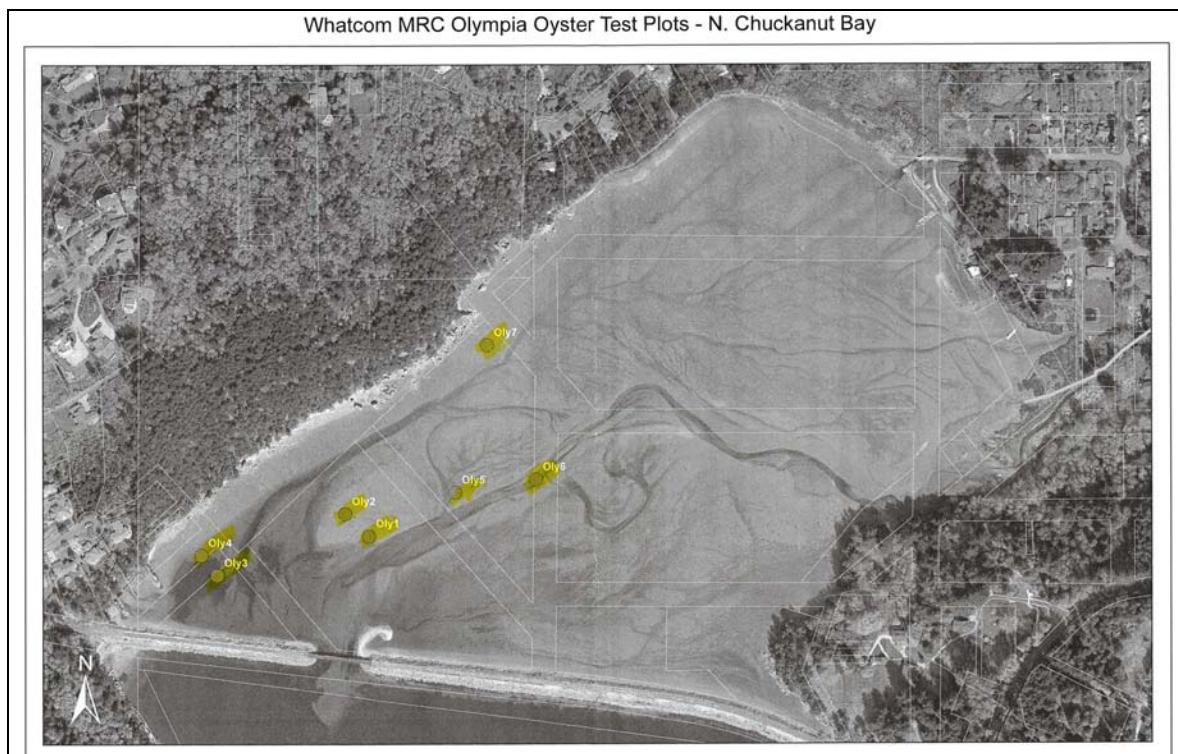


Date

18 U.S.C §1001 provides that: Whoever, in any manner within the jurisdiction of any department or agency of the United States knowingly falsifies, conceals, or covers up by any trick, scheme, or device a material fact or makes any false, fictitious, or fraudulent statements or representations or makes or uses any false writing or document knowing same to contain any false, fictitious, or fraudulent statement or entry, shall be fined not more than \$10,000 or imprisoned not more than 5 years or both.

If you require this document in another format, contact the Governor's Office for Regulatory Innovation and Assistance (ORIA) at (800) 917-0043. People with hearing loss can call 711 for Washington Relay Service. People with a speech disability can call (877) 833-6341. ORIA publication number: ORIA-16-011 rev. 07/2017

There are no indications of transfer or grant of ownership of MRC owned livestock (Live Olympia Oysters or their offspring) to The Woods at Viewcrest permit applicant (The Jones Family) or to the City of Bellingham on this page.



There are no indications of transfer or grant of ownership of MRC owned livestock (Live Olympia Oysters or their offspring) to The Woods at Viewcrest permit applicant (The Jones Family) or to the City of Bellingham on this page.

The Woods at Viewcrest permit applicant (Jones Family) did not appeal this Shoreline Permit decision within 14 days of issuance thus the placement of MRC owned livestock in North Chuckanut Bay is permanent.



PLANNING and COMMUNITY DEVELOPMENT DEPARTMENT

210 Lottie Street, Bellingham, WA 98225
Phone: (360) 778-8300 Fax: (360) 778-8301 TTY: (360) 778-8382
Email: planning@cob.org Web: www.cob.org

SHORELINE PERMIT EXEMPTION AUTHORIZATION for TYPE I PROJECTS

SHR2018-0010

Date Issued: 3/26/2018

Project Address and Parcel #: Generally located within the waters of Chuckanut Bay inside of the BNSF railroad causeway / trestle.

Applicant and Contact Information: Austin Rose, Whatcom County Marine Resource Committee. 360-778-6286 or arose@co.whatcom.wa.us

Project Description: Reintroduction of Olympia oysters into Chuckanut Bay as a pilot restoration project. Project is proposed by the Marine Resource Committee of Whatcom County in coordination with other local, state and federal agencies and various aquaculture organizations.

35 bags of seed shell will be distributed among six 20' x 20' test plots at low tide water-ward of the ordinary high water mark and within the waters of Chuckanut Bay. This restoration pilot project does not require any in-water structures or substantial development as defined in the city's SMP.

Shoreline Designation and Reach #: Natural - Marine reach #19.

Buffer Width: zero. In-water work. Conforming Use - N/A

Conforming Development: N/A

Associated Development Permit #(s): USACOE 404 and Section 10. WDFW H.P.A.

Exempt pursuant to BMC 22.05.020.B.1: p. Project is intended to be a restoration project.

Rationale: Please see JARPA dated 2/12/2018.

Condition(s): Implement as proposed.

Exempt from SEPA pursuant to WAC 197-11-800: N/A (No construction or structures proposed.)

A handwritten signature in blue ink, appearing to read "Austin Rose".

Authorized By:

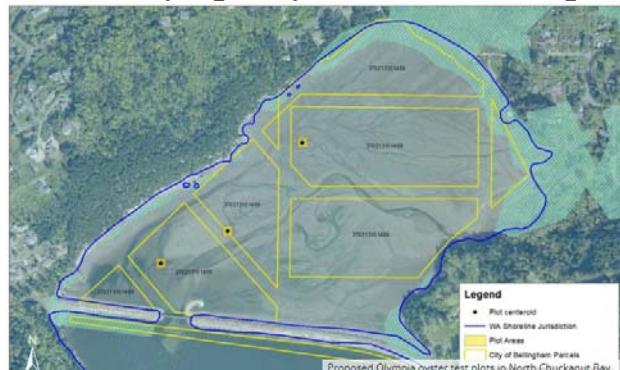
Appeal: Any party aggrieved by the decision of the Director may file an appeal within 14 days of the decision on this permit in accordance with BMC 21.10.250. Any appeal must be filed with the Planning and Community Development Department on the appropriate forms and be accompanied by a filing fee as established by the City Council.

Exhibit “E”

Re: Hearing Examiner Case Number: HE-25-PL-027

► **Failure to Disclose and Failed to Consider: The privately owned MRC livestock in North Chuckanut Bay.**

Future Olympia oyster restoration plan for North Chuckanut Bay:



In 2016, WDFW identified six plots within North Chuckanut Bay to pilot Olympia oyster restoration. In 2017, the MRC established six pilot restoration plots and one reference plot using 95,000 Olympia oyster spat on Pacific oyster shell. From 2018 to 2025, the MRC conducted annual population surveys of each of the test plots to assess restoration potential. Periodically, the substrate within the plots was enhanced with Pacific oyster shell. In 2025, WDFW conducted a site visit of the test plots with MRC staff and identified three that would be suitable for continued restoration efforts.

In 2026, the MRC plans to enhance three sites with additional oyster spat as shown in the figure. In 2027, the MRC will begin annual Olympia oyster population assessments.



Bellingham Technical College students assisting the Whatcom MRC with distributing shell w/spat within the test plot. Photo Credit: Austin Rose, Whatcom County Public Works

The MRC installed MRC owned Live Olympia oyster spat in North Chuckanut Bay in April of 2018.



Students with the Bellingham Technical College Fisheries and Aquaculture program help conduct an annual Olympia oyster population survey in North Chuckanut Bay. Photo credit: Dana Daniels.

The MRC installed Livestock (Live Olympia Oyster Spat) in North Chuckanut Bay with the help of Bellingham Technical College students.



"MRC Member Bob Cecile removing anchor from center of test plot. Photo Credit: Austin Rose, Whatcom County Public Works"



Brady Blake (WDFW) and Lisa Kaufman (Northwest Straits Foundation) conducting a site assessment

Photo credit: Austin Rose, Whatcom County Public Works, North Chuckanut Bay.

Exhibit “F”

Re: Hearing Examiner Case Number: HE-25-PL-027

- **Failure to Disclose:** the restoration oysters placed in Chuckanut Bay by the MRC were an “end product” of a “federal agreement” with the **Treaty Tribes of the Salish**. This agreement was centered on restoring self sustaining beds of native oysters in Puget Sound **for the benefit of** the feds, the State of Washington **and the Treaty Tribes of the Salish Seas**.
- This error “**establishes a risk**” for the State of Washington for the pumping of “The Woods at Viewcrest Stormwater Discharge” to an area outside the boundaries of North Chuckanut Bay, after the discharge is built and operational.

To understand the context of this issue, one only needs to consider the context of a 2001 lawsuit filed by 21 Indian Tribes against the State of Washington. This lawsuit claimed barrier culverts violated treaty rights. The Indian Tribes were successful and achieved a federal injunction against the State of Washington. This injunction required the replacement of 400 state-owned road culverts by 2030. In 2001 the budget was 4 billion dollars. Currently, the fix is behind schedule and over budget.

Because the restoration oyster spat placed in North Chuckanut Bay are an “**end product**” of an agreement between the feds, the State of Washington and the Treaty Tribes of the Salish Seas. A careful review is required because an “**Indian Tribe can make a bad faith claim**” against the State for a non-compliance with the terms and conditions of an established agreement.

The following is input from the Puget Sound Restoration Fund’s website:

Puget Sound Restoration Fund

Olympia oysters play a large part in Puget Sound’s ecosystem, culture, and history. **Collaborative rebuilding efforts with Treaty Tribes are a reflection of that history.** Olympia oyster restoration is a collective enterprise inspired by Treaty Tribes, shellfish growers, Marine Resources Committees and countless others. Fledgling efforts began in 1999, guided by a 1998 WDFW Olympia oyster rebuilding plan. PSRF learned quickly that LOTS of people wanted to engage in this effort. After all, who wouldn’t want to **recover a living shoreline full of historic resources of ecological and cultural importance?**

PSRF and Treaty Tribes have been facilitating this effort ever since. In addition to managing large-scale, on-the-ground restoration works, PSRF operates a conservation hatchery with was established by NOAA in 2014. This hatchery enables PSRF to produce and out-plant oyster seed to essential priority areas. This is an important precursor to restoring Olympia oyster to areas where the beds have been lost. All told, these actions help implement the recommendations of both the Blue Ribbon Panel on Ocean Acidification and the Washington Shellfish Initiative. Core team advisors for this effort, includes: WDFW, NOAA, Baywater, Inc., University of Washington, Swinomish Tribe, and the Northwest Straits Commission.

Our Olympia Oyster Partners are listed below:

- Washington Department of Fish & Wildlife (WDFW State Resource Manager)
- Tribes (Shellfish Co-Managers)

Suquamish Tribe

Samish Indian Nation

Skokomish Tribe

Nisqually Indian Tribe

Jamestown S'Klallam Tribe

Lummi Nation

Port Gamble S'Klallam Tribe

Northwest Indian College

Swinomish Indian Tribe

Northwest Indian Fisheries Commission

Olympia oysters are sparsely distributed across their historic range thus the PSRF has a trusted partnership requirement with the Treaty Tribes to increase the number of these oysters until their populations become self-sustaining. One of the primary ways PSRF does this is by producing restoration-grade Olympia oyster seed for out-planting into the wild. PSRF first collects brood-stock Olympia oysters from the [geographic basins](#) of proposed restoration projects. This brood-stock is then brought to the [Kenneth K. Chew Center for Shellfish Research and Restoration hatchery](#) at NOAA's Manchester Research Station. This hatchery is a hub for producing millions of baby oysters for out-planting.

At the hatchery, PSRF induces spawning in the brood-stock, captures larvae and rears the larvae as either single oysters, or as spat-on-shell. For the latter, PSRF pumps larval oysters into large setting tanks filled with bags of Pacific oyster shells, so the larvae can settle onto shells. During this process the larvae is fed with a continuous diet of micro-algae. Once the larvae have been transformed into oyster spat their final stop is planting into the wild onto tide-flats.



Photo credit: Puget Sound Restoration Fund

Exhibit “G”

Re: Hearing Examiner Case Number: HE-25-PL-027

→ **Failure to Disclose and Failed to Consider: The privately owned MRC livestock in North Chuckanut Bay is a WDFW priority species for conservation in Washington State.**



Washington Department of
FISH & WILDLIFE

Olympia oyster (*Ostrea lurida*)

Category: Molluscs

Family: Ostreidae

Common names: Oly, Shoalie, native oyster

Ecosystems: [Marine shorelines](#) ⓘ

Vulnerability to climate change ([More details](#))

Low	Low-Moderate	Moderate	Moderate-High	High
-----	--------------	----------	---------------	------



The Olympia oyster (*Ostrea lurida*) is Washington's only native oyster species. An icon of the Pacific Northwest, this small shellfish plays a vital role in local estuaries by cleaning the water and providing essential habitat for marine life.

Historically, they lived along the Pacific coast from Sitka, Alaska, to Baja California. Today, populations are scattered across this historic range. In Washington, extensive harvesting and pollution caused a severe decline, leaving as little as 5% of historical oyster bed habitat remaining by 2012. WDFW and partners are actively working to rebuild these native populations.



Photo by WDFW

Description and Range

+

Climate vulnerability

+

Regulations

+

Conservation

-

This species is identified as a **Species of Greatest Conservation Need** (SGCN) under the [State Wildlife Action Plan](#) (SWAP). SGCN-classified species include both those with and without legal protection status under the Federal or State Endangered Species programs, as well as game species with low populations. The WDFW SWAP is part of a nationwide effort by all 50 states and five U.S. territories to develop conservation action plans for fish, wildlife and their natural habitats—identifying opportunities for species' recovery before they are imperiled and more limited.

This species is identified as a **Priority Species** under WDFW's [Priority Habitat and Species Program](#). Priority species require protective measures for their survival due to their population status, sensitivity to habitat alteration, and/or recreational, commercial, or tribal importance. The PHS program is the agency's main means of sharing fish and wildlife information with local governments, landowners, and others who use it to protect priority habitats for land use planning.

Protected Status

In 1997, Olympia oysters were listed by the Washington Department of Fish and Wildlife (WDFW) as a State Candidate species. State Candidate species are those that WDFW may review for possible future listing as State Endangered, Threatened, or Sensitive species. Olympia oysters are designated by WDFW as a Species of Greatest Conservation Need and is also included in WDFW's [Priority Habitats and Species List \(PHS\)](#), a catalog of habitats and species considered a priority for conservation and management.

History of restoration efforts in Washington State

Restoration efforts in Puget Sound were initiated following the development of WDFW's 1998 Olympia Oyster Stock Rebuilding Plan (Cook et al. 1998). The key actions cited in the 1998 Rebuilding Plan included development of survey methods, population inventories, natural restoration techniques, site selection criteria, genetic integrity investigations, water quality improvement, and habitat protection. The 1998 Rebuilding Plan was not funded as a WDFW project, however, and many aspects of the plan have been undertaken by the non-profit [Puget Sound Restoration Fund \(PSRF\)](#), a key WDFW partner in native shellfish research and restoration. Native oyster restoration in Puget Sound has been a collaborative partnership effort facilitated by PSRF and involving WDFW and other government agencies, Tribes, shellfish growers, non-profit organizations including the [NW Straits Commission](#), universities, private tideland owners, and volunteers since 1999. This work has led to many successes in Olympia oyster restoration and contributed much to the understanding of the species, its place in the Puget Sound ecosystem, and how to advance its long-term recovery.

Priority areas for native oyster restoration in Washington State

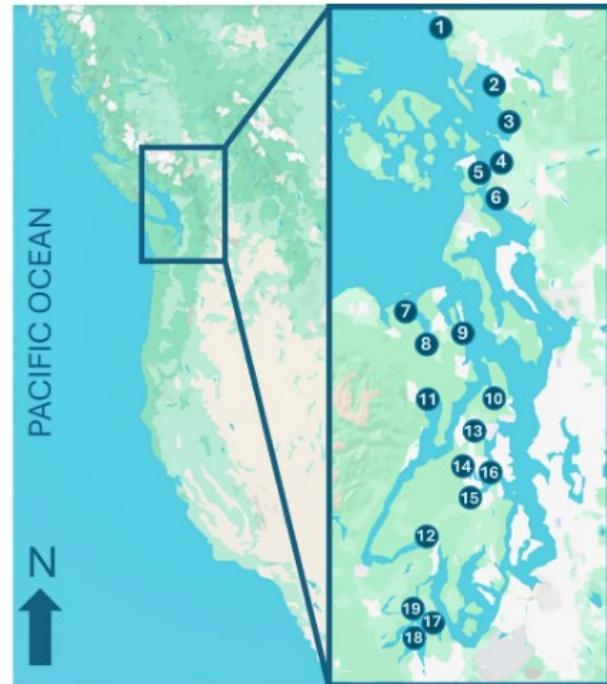
In 2012, WDFW identified 19 Priority Sites at which to focus Olympia oyster restoration, based on historical occurrence and existing habitat and other favorable factors. WDFW recommended a focused restoration strategy at 19 sites within Puget Sound by 2022. This strategy was recommended for both the biological conservation of the species and as a foundation for continued rebuilding of the species by natural or artificial means. In 2022, PSRF and a multitude of partners reached their 10-year goal of restoring 100 acres of Olympia oyster habitat by 2020. WDFW, PSRF, and partners are hard at work developing goals for the next decade of Olympia oyster recovery, which still has a long way to go.

The primary objectives of this restoration strategy are the biological conservation of the species and its associated habitat. Those objectives are achieved by re-establishing, rebuilding, and enhancing natural native oyster assemblages, ensuring the species' long-term persistence in the face of changing marine and environmental conditions, and the competing uses of Puget Sound marine waters and tidelands. WDFW prioritizes habitat enhancement (by replacing oyster shell) coupled with natural oyster production, but other tools, like releasing hatchery-reared oysters, are also key to broad-scale restoration.

Restoration initiatives on the West Coast

In addition to restoration efforts in Washington State, [The Native Olympia Oyster Collaborative \(NOOC\)](#) supports coastwide restoration efforts by coordinating science and communication across the species' range to ensure best practices and knowledge sharing among practitioners. Currently, there are active on-going restoration efforts in California, where populations are smaller than in Washington, and restoration relies on conservation aquaculture as natural recruitment is limited with a few exceptions.

Olympia oyster restoration efforts have also occurred, or are ongoing, in neighboring British Columbia and Oregon.



WDFW Priority Sites for Olympia oyster restoration. Sites are numbered and move from north to south.

- 1.) Drayton Harbor
- 2.) Bellingham and Chuckanut Bays
- 3.) Samish Bay
- 4.) Padilla Bay
- 5.) Fidalgo Bay
- 6.) Similk Bay
- 7.) Sequim Bay
- 8.) Discovery Bay
- 9.) Kilisut Harbor
- 10.) Port Gamble Bay
- 11.) Quilcene Bay
- 12.) Union River and Mission Creek Deltas
- 13.) Liberty Bay and sub-inlets
- 14.) Dyes Inlet and sub inlets
- 15.) Sinclair Inlet
- 16.) Pt. Jefferson-Orchard Pt. inlets
- 17.) Budd Inlet
- 18.) Henderson Inlet
- 19.) Harstine/Squaxin Island inlets.

Threats

Restoration efforts must address significant biological stressors:

- **Non-Native Species:** Invasive oyster drills hurt native oysters through predation and competition. The larger, introduced Pacific oyster may sometimes compete with Olympia oysters for habitat.
- **Disease:** While not confirmed in Washington, a dangerous protozoan parasite, *Bonamia ostreae*, has been identified in native oysters in California, which raises conservation concerns.

Resources

+

I am a resident of Edgemoor providing testimony with regard to the Woods at Viewcrest proposed subdivision and to support maintaining the Chuckanut Bay Shorelands City Park. When the City commissioned a study of pocket estuaries, the Chuckanut Creek estuary was noted to have an abundance of wildlife, and subsequently the City created this park. The Washington State Shoreline Management Act and the Environmental Excellence Program Agreement purport to “promote efforts which will prevent or eliminate damage to the environment” and to “encourage enjoyable harmony between humankind and the environment”. In keeping with these goals, it is paramount that there will be no damage to the waterbody and lands that sit directly below the proposed subdivision, including publicly owned shorelands, tidelands, and adjacent Chuckanut Creek Marsh and Chuckanut Village Marsh.



Photo credit: Lori Rubens, November 14, 2025 of Mud Bay looking south from shore. Buffleheads in foreground; Surf Scoters in background

As a sea kayaker, hiker, birdwatcher, and Salish Sea Steward, I have enjoyed and appreciated the natural world of Chuckanut and North Chuckanut Bay. Observing large populations of migratory ducks, including Surf Scoters and Buffleheads, in North Chuckanut Bay is one of my favorite fall and winter pastimes, and this season has been no exception as I have observed many dozens of these 2 species on any given day. They spend the winter in this sheltered shallow bay in large part because of the abundance of marine invertebrates that live in or on the mudflats and constitute their food supply.

What will happen to these ducks if their food supply is harmed due to storm water runoff that pollutes the bay? For example, a big rain event may deposit heavy metals such as copper, a frequent additive to roofing material, into the bay. And heavy metals such as copper are known to be toxic to the tiny

crustaceans that burrow in the mud. What will be the effect of pesticides and herbicides deposited into the bay on the marine invertebrates of Mud Bay? How about tire toxins that initially stick to impermeable surfaces but eventually get deposited into the bay? Does the Developer's proposed stormwater management plan appropriately address these potential environmental impacts to Mud Bay? I think it does not.

To ensure that the City is not put at risk of ruining a vital and productive ecosystem and in order that residents and visitors can continue to enjoy the natural beauty of North Chuckanut Bay, an Independent EIS must be completed to comply with the Shoreline Management Act.

Respectfully submitted,

Lori Rubens, MD

Lvanrubens@comcast.net



Public Comment

Name

Greg and Colleen Hoffenbacker

Full name or organization

Your name is required for identification as a part of the public record.

Choose Topic

The Woods at Viewcrest

Topics available for online public comment are listed above. If no topics are listed, there may be opportunities for public comment on various topics through email, letters, and public comment periods during meetings.

More information on this topic can be found at <https://cob.org/project/the-woods-at-viewcrest>

Comment or Testimony

We've enjoyed kayaking in Mud Bay for more than 25 years. It is a uniquely beautiful and wild place that deserves protection. At the very least, please require an EIS for this project. It would be criminal to proceed with this project without fully understanding and mitigating the potential damage to this area. We've learned time and time again that it's not okay to just take the developer's word that their development won't cause any problems.

COB's own webpage (<https://cob.org/services/recreation/parks-trails/parks-guide/chuckanut-bay-shorelands>) describes the area as:

"Bellingham's richest and most biologically diverse estuary."

Yes, we need to build more housing, but let's not destroy the unique, beautiful, and wild places that make Bellingham special. There is still plenty of room to build housing where adequate infrastructure already exists – in our urban villages.

Please require an EIS for this project, "Bellingham's richest and most biologically diverse estuary" is too valuable to ignore.

Thank you.

Sincerely,

Greg & Colleen Hoffenbacker

622 13th St., Bellingham, WA 98225

Files

Documents or images related to your comments.

Email

cghoffenbacker@yahoo.com

Your email address will only be used to send you a copy of this comment and any official notifications related to this topic.

Date

1/3/2026

Kathy M Bell

From: Laurie Brion <laurie_brion@comcast.net>
Sent: Sunday, January 4, 2026 12:49 PM
To: G.Proj.Wood at Viewcrest
Subject: Comment on Woods at Viewcrest Project

You don't often get email from laurie_brion@comcast.net. [Learn why this is important](#)

CAUTION: This message originated from outside of this organization. Please exercise caution with links and attachments.

Hello,

My question is regarding the amount of tree removal in the Woods at Viewcrest project.

While the project planning at this point states that 80% of the tree cover will be retained, I want to know if this includes the development of the individual lots.

That is, is there any control over tree removal on individual lots once they are sold?

I ask because we have seen lots in process of development be largely stripped of their trees and built out to the extent possible of the lot.

An example is the large house currently being built at the south end of Briar Road that completely fills the lot area, leaving a small fringe of trees.

Another example is the Sea Pines Road development, where many houses are built close to one another and most trees have been removed for the sake of a view.

I find it deceptive to imply that 80% of the trees will be retained when, as far as I know, there will be no control over tree removal when individual lots are sold. It's clear that these lots have been designed to provide view: they are long and narrow, with the house envelopes being placed close together so that the maximum number of lots can be sold as view lots. It is also clear that the houses will probably be big, and that they will remove trees in front of their view.

Your studies have indicated that the more natural vegetation is removed the more one can anticipate erosion, even landslides, and the increased likelihood of remaining trees being blown over by strong winds or being removed preventatively. It's a domino effect, and it becomes an excuse or cause to remove yet more trees.

If there is no control over tree removal at the level of individual lot development, one can anticipate that much more than 20% of the tree cover on this piece of land will be removed. How can this be justified? Larger lots, with municipal controls over tree removal would be so much more interesting, both for the environment, for the community around the project, and ultimately for the people who will be purchasing and living on these lots.

Thanks for your attention to this matter.

Laurie and Alain Brion
358 Viewcrest Road
Bellingham, WA 98229



Consolidated Application: The Woods at Viewcrest

Executive summary:

This application for *The Woods at Viewcrest* presents two classes of legal problems:

1. **Umbrella Issues** that affect the entire project and its legal foundation.
2. **Stand-Alone Issues** that may be influenced by those umbrella flaws but also fail independently under the law.

Umbrella Issues – Why the Whole Project Fails

- **Staff Report Misinterpretations:** The report substitutes common language for legal standards—using words like “feasible” and “no net loss” as predictions rather than enforceable requirements. Under BMC 16.55, Title 22 Shoreline Master Program (SMP), and BMC 22.08.010(4)(g), these terms carry strict legal meaning. Misquoting or diluting them risks creating findings that cannot be enforced.
- **Lot Size and Phasing Violations:** Area 7 zoning requires 20,000 sq. ft. minimum lot size or one lot per 20,000 sq. ft. average density (BMC 20.00.060). Lot averaging under BMC 23.08.050(A)(6) imposes hard floors—80% and 90% of minimum—that the applicant ignores. Phase 2 averages only 11,602 sq. ft. and Phase 1 contiguous lots 1-6 average 19,824 sq. ft., violating BMC 23.16.010(E), which requires each phase to stand on its own.
- **Self-Created Hardship:** Variances under BMC 20.18.020, buffer reductions under BMC 16.55.460, and departures under BMC 23.48.030 cannot be granted for hardships created by the applicant’s design choices. The property already has four legal, buildable lots. Requests for 38 lots and extreme engineering solutions are profit-driven, not legally necessary.

These umbrella issues undermine the entire application. If the Hearing Examiner applies the law as written, the consolidated permit cannot stand.

Stand-Alone Issues – Each One Fails Independently

- **Blanket Buffer Reductions:** Reducing all geologic hazard buffers to 10 feet violates BMC 16.55 and BMC 22.08.080, which require buffers equal to slope height or 50 feet unless site-specific analysis proves safety. No such analysis exists.
- **Tightline Outfall:** Discharging stormwater into Mud Bay violates RCW 90.58, RCW 90.48, and BMC 22.08.210, which prohibit adverse impacts and require “no net loss” of ecological function. Engineering design fails Stormwater Management Manual Volume V, Section 1.4.3 standards for durability and maintainability.
- **Street Variances and Driveway Grades:** Variances for 15% road grades and reduced street standards conflict with BMC 23.48.040 and Public Works safety requirements. These are self-imposed hardships.
- **Blasting Plan:** Blasting in landslide hazard areas violates BMC 16.55 and BMC 23.04.050, which require avoidance and minimization of disturbance in critical areas.

Bottom Line

The law is clear: variances and departures cannot cure self-imposed design constraints. This project does not meet the letter or intent of the BMC, the Critical Areas Ordinance, or the Shoreline Master Program. The consolidated application should be denied. The applicant retains reasonable use today with four buildable lots that require no variances and no harm to Mud Bay or Chuckanut Marsh.

Umbrella Issues:

Staff Report:

The Staff Report uses common language that could be misinterpreted as legal findings. This matters because your decision sets precedent and must be based on enforceable standards in the Bellingham Municipal Code (BMC).

First example: The phrase “no net loss” appears as “not anticipated” or “expected.” Under BMC 16.55 and Title 22 Shoreline Master Program, “no net loss” is a legal standard, not a prediction. If interpreted as a finding, this could allow approval without enforceable conditions tied to measurable performance.

Second example: The term “feasible” is used as shorthand for construction difficulty. But BMC 22.08.010(4)(g) requires a legal feasibility test: no other alternative with less impact. If this is misread, variances could be granted without meeting the legal threshold.

Third example: “Public interest” is supported by footprint math—like “0.5% of shoreline area.” But the Shoreline Conditional Use Permit (SCUP) criteria require a multi-factor analysis: ecological function, public access, aesthetics, safety, and cumulative impacts. Reducing this to a percentage risks narrowing the legal test.

Fourth example: Variances under BMC 23.24.040 are justified by “extraordinary situation” in broad terms. Without lot-specific evidence, this could be read as meeting legal criteria when it does not.

Fifth example: The staff misquotes BMC 20.00.060 which says “20,000 sq. ft. min. detached lot size, or one lot per 20,000 sq. ft. average overall density” as saying “Area 7 does not have a specified minimum lot size requirement.” Area 7 clearly has a minimum lot size which triggers BMC 23.08.050 on how those lots are averaged if the average approach is chosen.

Impact: If these phrases and misquotes are treated as legal findings, the decision record may appear compliant but lack enforceable standards or be enforced to the wrong standards.

Lot size averaging and minimum lot sizes:

1. Area 7 includes a minimum lot size

- The developer frames Area 7 as “average density only,” but the zoning table says:

“20,000 sf minimum detached lot size, **or** one lot per 20,000 sf average overall density.”

- That means the minimum lot size exists, so Lot Averaging rules under BMC 23.08.050(A)(6) apply if they want flexibility. The applicant cannot bypass those floors by claiming “average density only.”

2. The Lot Averaging floors are ignored

- BMC 23.08.050(A)(6) does not allow unlimited flexibility. It imposes hard per-lot floors:
 - No lot < 80% of minimum. For Area 7, that's 16,000 sf.
 - All others \geq 90% of minimum (18,000 sf).
- The applicant shows interior lots are as small as 10,040 sf, which is 50% of the minimum, far below the 80% floor. The application also shows a full 13 of the 38 proposed below 16,000 sf and 2 more between 16,000 and 18,000 sf.
- This means Lot Averaging cannot legally apply to these lots. Their own numbers confirm noncompliance.

3. Phasing rule still applies

- Even if overall plat average is 20,000 sf, BMC 23.16.010(E) requires each phase to “stand on its own.”
- Phase 1 contiguous lots 1-6 average 19,824 sf per lot so it fails the density standard independently. Oversized and non-contiguous lots cannot cure Phase 1.
- Phase 2 averages \sim 11,602 sf per lot, so it fails the density standard independently. Oversized lots in other phases cannot cure Phase 2.

4. Variance cannot fix this

- BMC 23.48.040 prohibits varying minimum lot size via subdivision variance. So the Examiner cannot approve these undersized lots through a variance.

5. Missing Planned Development Permit (PDP)

- When density cannot be met under Lot Averaging or per-phase compliance, the correct legal path is a Planned Development Permit under BMC 20.38. The

applicant admits they are relying on Lot Averaging, but their numbers show they fail its conditions and there is no PDP in the record.

The Intent of BMC 23.08.050(A)(6)

- The intent is to preserve neighborhood character while allowing limited flexibility for site constraints—not to enable a “donut” layout with extreme undersized lots.
- The 80%/90% floors were written to prevent exactly what the developer proposes: a cluster of very small lots offset by a few very large ones.
- Area 7 was included under this provision because it has a minimum lot size (20,000 sf) and a low-density character mandate. Lot Averaging was meant to allow modest adjustments, not wholesale departures.

Phasing:

This project is in Edgemoor Area 7, which is governed by BMC 20.00.060.

Area 7 is zoned for 20,000 sf minimum detached lot size, or one lot per 20,000 sf average overall density.

That standard exists to preserve the low-density character of Edgemoor.

Under BMC 23.16.010, when a subdivision is phased, each phase must stand on its own. That means every phase must:

- Meet the zoning and neighborhood plan requirements,
- Provide logical, coordinated development, and
- Not rely on future phases to fix problems.

Phasing is not just about construction timing—it is about compliance at every step.

Now let's look at the phasing plan.

The contiguous lots of Phase 1 (lots 1 through 6) average 19,824 square feet per lot, which fails to meet the 20,000 average square foot requirement. Lots 37 and 38, which the applicant considers part of Phase 1 cannot be included in Phase 1 because they are not contiguous with lots 1 through 6. Including lots 37 and 38 in Phase 1 violates BMC 20.00.060, which requires all lots in each phase to be contiguous.

Phase 2 (lots 10 through 17) averages only 11,600 square feet per lot and also fails to meet the 20,000 average square foot requirement. None of the eight lots in Phase 2 meet the 20,000 square foot standard. This is not a minor deviation—it is a clear break from the neighborhood plan.

Because each phase must stand on its own, Phases 1 and 2 do not comply with the city's development regulations.

Self-Created Hardship:

A key legal principle to keep in mind as you consider this case is: variances, departures, or permits cannot be granted based on hardships that are self-created by the applicant. This principle is clearly established in the Bellingham Municipal Code and state law.

Under BMC 20.18.020, variances may only be granted when the applicant demonstrates that unique physical conditions of the property create a hardship that is not self-imposed. Similarly, BMC 16.55.120 and BMC 22.06.040 reinforce that variances cannot be used to circumvent critical area protections or shoreline regulations unless the hardship is caused by conditions beyond the applicant's control.

The staff report for The Woods at Viewcrest confirms that the property currently consists of four large, buildable lots with "reasonable use", already established. The applicant's request for variances and buffer reductions is driven by a desire to maximize lot yield, not by any unique site constraints that preclude reasonable use. This is the very definition of self-created hardship.

Granting variances to accommodate a subdivision design that increases density beyond what the land can reasonably support would violate the no self-created hardship standard and undermine the purpose of the Critical Areas Ordinance and Shoreline Master Program.

Moreover, the staff report highlights that the proposed variances would allow development in hazardous areas and critical buffers, which would constitute a special privilege prohibited by BMC 23.48.040. The law requires that variances be granted only when strict application of the code would preclude reasonable use, not to enable profit-driven overdevelopment.

The applicant is currently asking for relief from buffers and standards to accommodate a 38-lot subdivision. However, this property is already comprised of four large, buildable lots. The "hardship" here is not the land; it is the applicant's choice of design. Because reasonable use of the property exists today—without any variances—any claim of

"unnecessary hardship" is entirely self-created. This is supported by the City's staff report, which confirms the property's existing four buildable lots provide reasonable use without variances. The applicant is seeking to maximize lot yield, but the code does not grant variances to maximize profit; it grants them to allow the legal standard of *reasonable use*.

Critical Areas and Shorelines

- **Buffer Reductions (BMC 16.55.460):** These require "necessity." With four buildable lots available, there is no legal necessity to reduce buffers for any lots.
- **No Net Loss:** Under Title 22, the applicant must prove "No Net Loss" of ecological function. Forcing high-density stormwater runoff toward Mud Bay is an ecological risk that is only necessary because of the chosen density.

The Land Division Variance (BMC 23.48.040) Subdivision variances are meant for unusual topography or environmental constraints that prevent *any* development. Here, the topography is not preventing development; it is simply preventing *this specific, over-engineered design*. Granting relief to force more lots into hazardous or buffered areas would constitute a "special privilege" prohibited by code. Staff also recommends denial of variances that increase impacts beyond what is necessary for reasonable use.

The "Dynamite" Test The applicant proposes a Blasting Plan to remove massive amounts of rock. This extreme level of disturbance is a direct result of the subdivision layout. If the applicant stuck to the four existing lots, the need for dynamite—and the accompanying risks to the cliffs—would vanish. This is the clearest evidence that the requested departures are not "necessary" under the law.

Umbrella items closing:

Taken together, these umbrella issues expose a fundamental flaw: this application is not about reasonable use—it is about maximizing lot yield in defiance of the law. The applicant and City attempt to justify the design by claiming the site could support "as many as 82 lots" based on raw acreage. That argument is misleading. It ignores the very conditions the Bellingham Municipal Code was written to address: steep slopes, landslide hazards, shoreline buffers, and critical areas. These constraints are not optional—they are enforceable standards under BMC 16.55, Title 22 Shoreline Master Program, and BMC 20.00.060.

The record shows that the property already has four legal, buildable lots that meet code without variances. Reasonable use exists today. Every variance, buffer reduction, and departure requested is driven by the applicant's choice to force a 38-lot subdivision into

terrain that cannot safely or legally support it. That is the definition of self-created hardship, which BMC 20.18.020 and BMC 16.55.120 prohibit as a basis for relief.

The staff report compounds these problems by relying on common language instead of enforceable standards, misquoting key provisions, and ignoring mandatory thresholds in the BMC. These are not minor technical errors—they strike at the legal foundation of the decision. The applicant’s design conflicts with BMC 20.00.060 (minimum lot size and density), BMC 23.08.050(A)(6) (lot averaging floors), BMC 23.16.010(E) (phasing compliance), and undermines BMC 16.55 and Title 22 SMP, which require protection of critical areas and “no net loss” of ecological function. These umbrella issues affect every aspect of the project—from lot layout to stormwater management—and cannot be cured by piecemeal variances or conditions.

Approving this application would grant a special privilege prohibited by BMC 23.48.040, set a precedent for ignoring mandatory standards, and weaken protections for steep slopes, critical areas, and shorelines citywide. The Hearing Examiner’s role is to apply the law as written—not to validate a design that only works by dismantling those protections. When umbrella issues invalidate the legal framework of a project, the correct remedy is not to grant exceptions—it is to require compliance through redesign.

Stand Alone Issues:

15% Grade on West Road:

Under Bellingham Municipal Code (BMC) Section 20.18.020, a variance may only be granted when:

- There are special circumstances related to the property, not caused by the owner.
- Granting the variance will not harm public welfare or neighboring properties.
- The property cannot be reasonably used under existing regulations.

The code clearly states that variance requested cannot be due to a circumstance caused by the property owner. In other words, the hardship must NOT be self-imposed. Designing a project that requires extreme road grades is a choice, not a hardship.

Departure: The applicant proposes a public street with a 15% grade. City of Bellingham Public Works Standards generally limit residential street grades to 12%. A 15% grade is NOT to code and would require a departure.

Public safety concerns with a 15% grade include:

- Emergency vehicle access: Fire trucks and ambulances struggle on grades above 12%, especially in icy conditions.
- Vehicle safety: Increased risk of skidding and accidents.
- Pedestrian safety: Hazardous for mobility-impaired individuals.
- Drainage and erosion: Steeper grades accelerate runoff and erosion.

Approving this variance would set a precedent for unsafe road design and undermine the intent of BMC 20.18.020. The hardship claimed is self-imposed because alternative designs could comply with code.

Geo-Technical Review of Lots:

Key Issue: Figure 3B and Lot-Specific Geotechnical Review

Figure 3B in the Element Solutions report shows multiple lots within slopes exceeding 40%, and even areas over 80%, along with fractured outcrop zones and rock debris. These are not minor variations—they are significant hazards that differ lot by lot.

This visual evidence reinforces that lot-specific geotechnical review cannot be deferred without creating a legal gap under Bellingham Municipal Code (BMC) section 23.16.010, which requires that each lot can reasonably be developed without requiring approval of subsequent variances, and BMC section 23.04.030, which requires subdivisions to provide safe and adequate access.

Key Issue: Lot-Specific Geotechnical Reviews Deferred

The staff report clearly states that lot-specific geotechnical review will occur later in the process. This means feasibility today is only conceptual, not confirmed. When staff acknowledges that additional studies are needed after approval, it signals uncertainty about whether these lots are truly buildable now.

Both the staff report, and the applicant acknowledge that this site has very difficult building conditions as the property stands today. That acknowledgment makes it even more important to confirm lot viability now—not later. Under Bellingham Municipal Code (BMC) section 23.16.010, a subdivision must demonstrate that lots are buildable at the time of approval—not contingent on future studies. The staff recommendation to defer

geotechnical review creates a legal gap between subdivision approval and actual lot viability.

The staff report also recommends conditions for future analysis rather than confirming compliance today. This approach conflicts with BMC section 23.04.030, which requires subdivisions to provide safe and adequate access. Without lot-specific geotechnical confirmation, there is no assurance that roads, driveways, and building sites can meet safety standards.

Approving this plat now would allow lots to be sold without certainty that they can be built safely. Deferring geotechnical review to future lot buyers is not consistent with the law or the intent of the law. It shifts risk away from the developer and onto the public and future property owners. Approving lots that are not buildable will eventually result in takings claims.

South Private Driveway:

This driveway is critical infrastructure. Without it, the lots served by it are not viable. The applicant proposes a road with grades up to 11.82 percent, a 10-foot cast-in-place retaining wall, and significant earthwork. These are high-risk design elements.

The staff report uses the word 'feasible', but also recommends lot-specific geotechnical review later. That means feasibility isn't being used as a legal term but as a common engineering term and feasibility today is only conceptual, not confirmed. Under Bellingham Municipal Code (BMC) section 23.16.010, a subdivision must demonstrate that lots are buildable at the time of approval, not contingent on future studies.

The geotechnical report only addresses reducing geological buffers from 50 feet to 10 feet. It does not analyze slope stability for the driveway or the retaining wall. Slopes greater than 50 feet and structural fill introduce risks that remain unresolved.

Approving this plat now would allow lots to be sold without certainty that the driveway can be built safely. This creates a legal gap between subdivision approval and actual lot viability. Bellingham Municipal Code section 23.04.030 requires subdivisions to provide safe and adequate access.

If the south driveway cannot be constructed as designed, the subdivision fails its purpose. Deferring geotechnical review to future lot buyers is not consistent with the law or the intent of the law.

Lot 21:

The proposed private driveway for Lot 21. This design depends on a site-wide critical area buffer reduction—from 50 feet down to just 10 feet. That reduction is being leveraged to make this winding driveway possible. The driveway twists and turns around reduced buffers, nearly touching the reduced building envelopes of Lots 11 and 12 and cutting through these lots. This is not just unusual—it creates foreseeable conflicts between neighbors and makes the planned driveway impractical.

Under Bellingham Municipal Code Section 20.08.020, buffer reductions must not compromise slope stability or public safety. These rules exist to protect people and property from landslide hazards. Approving a 10-foot buffer in a hazard zone that has not been individually evaluated is not consistent with that intent. Additionally, BMC 20.08.020(B)(2) states that a variance cannot be granted for conditions created by the applicant.

The developer also requests a variance to allow the south driveway to serve eight lots instead of the maximum of four allowed by code. Here is the problem: Lot 21 is scheduled for Phase 3. When it sells, the design creates a foreseeable condition where the buyer will have a strong argument to connect to the south driveway instead of the planned driveway easement leading to the west road for safety and convenience. That would make nine lots on a driveway presumably approved for eight. This is contrary to BMC 20.08.020(B)(2) and undermines the intent of the code.

Lots 11, 12, and 21 are already far below the 20,000 square foot average required by BMC 20.00.060. Adding a private access easement through these undersized lots—where building envelopes are already constrained or even reduced by critical area buffers—further compromises usability and livability. This does not meet the intent of the code and creates foreseeable conflicts for future owners.

Blanket Buffer Reductions:

The proposed blanket reduction of virtually all geologic hazard buffers to 10 feet across the site violates the City of Bellingham Critical Areas Ordinance (BMC 16.55 and BMC 22.08.080). By law, buffers must equal the height of the slope or 50 feet—whichever is greater—unless a qualified professional demonstrates, through site-specific analysis, that a smaller buffer will adequately protect the development, adjacent properties, and critical areas. This requirement is not optional.

In this case, no such analysis exists. There is no lot-by-lot review, no slope height measurements, no numeric slope stability calculations showing the required factors of safety (1.5 static, 1.2 seismic), and no cross-sections comparing slope height to default buffers. There is also no Critical Area Permit or written findings by the Director approving these reductions. Staff recommendations alone do not meet the code standard.

The applicant's own geotechnical report defers hazard review to the building permit stage, leaving critical safety questions unanswered. Meanwhile, the site contains slopes exceeding 100 feet, suspected landslide features, boulder debris we can see with our own eyes, and documented rockfall hazards—physical evidence of instability. Reducing buffers to 10 feet virtually everywhere ignores these risks and undermines both the letter and intent of the law.

This variance is driven by the developer's design choices, not by necessity for reasonable use. The property already contains four legal building lots that comply with current code without buffer reductions. A different layout would avoid the need for any variance.

Approving this blanket reduction would set a dangerous precedent: allowing developers to design projects that force variances, weakening protections for steep slopes and critical areas citywide, and exposing future homeowners, neighbors, and Chuckanut Bay's shoreline resources to unnecessary risk. The law requires individualized review and mitigation to **ensure no net loss of ecological function and public safety—a standard** this proposal fails to meet.

Tightline Outfall:

Mud Bay is a pocket estuary, classified E2USN and designated Natural under Bellingham's Shoreline Master Program (BMC Title 22). This designation requires preserving ecological functions, achieving no net loss, and restoring habitat where possible, consistent with the Washington Shoreline Management Act (RCW 90.58). The City's own Pocket Estuary Management Recommendations call for eliminating tightline discharges and treating stormwater before it reaches the estuary—yet the applicant proposes the opposite is appropriate and fails to provide documentation of modeling their vague references to treatment.

The proposed outfall is located just above the High Tide Line, within the shoreline buffer, and therefore within shoreline jurisdiction under RCW 90.58, which extends 200 feet landward of the Ordinary High Water Mark. RCW 90.48 prohibits discharges that violate water-quality standards, and the City's MS4 Phase II permit requires stormwater controls that reduce pollutants to the maximum extent practicable. Mud Bay's low-energy system

traps pollutants such as copper, zinc, hydrocarbons, and tire-derived compounds like 6PPD-quinone—chemicals known to harm salmon and other species. Flow-control exemptions for saltwater do not apply here; the Stormwater Management Manual for Western Washington requires flow control in sensitive estuaries buffers.

The proposed design does not meet the engineering standards required by law. The SEPA MDNS notes that trees “may assist in holding the pipe,” as if we are to assume this is a good thing, but reliance on vegetation for structural support is inconsistent with Volume V, Section 1.4.3 of the Stormwater Management Manual for Western Washington, which mandates durability, inspectability, and maintainability. The record lacks outlet velocity calculations, an engineered energy dissipater, an erosion monitoring plan, and continuous armoring through the rockfall zone. A single inspection hatch at the top of the slope is inadequate for long-term maintenance. Trees are not permanent anchors—they can fail due to storms, disease, or age. Here, the code is clear, and requires properly engineered solutions, not temporary measures or engineering concepts.

Finally, BMC 22.08.210 prohibits stormwater facilities that cause adverse impacts to shoreline ecology and allows new outfalls in shoreline buffers only if no feasible alternative exists. The applicant has not demonstrated infeasibility of alternatives, and under SMP policy, “not developing” is a feasible option when impacts cannot be avoided. Cost or convenience does not override ecological protection. Real-world evidence from the Arbutus outfall shows trenching, scarring, and beach damage—predictable harm that now violates the SMP’s no net loss standard.

In summary:

- Natural designation means ecological protection takes priority over development.
- The proposal conflicts with RCW 90.58, RCW 90.48, BMC 22.03.030, 22.08.210, and SMP goals.
- Engineering design does not meet stormwater manual requirements for safety and durability.
- No feasible alternatives analysis has been provided.

Approving this outfall would degrade one of Bellingham’s most ecologically significant habitats and set a precedent for ignoring shoreline protections.

Arbutus Stormwater Outfall:

This section focuses on the Arbutus stormwater outfall and why any net new stormwater must conform to the strongest standards under current law.

Mud Bay is designated as Natural, Waters of Statewide Significance, Critical Area, Pocket Estuary, Mudflat, E2USN, and Waters of the United States (WOTUS) and the Arbutus stormwater outfall is in Mud Bay.

These designations trigger protections under the Shoreline Management Act, the Clean Water Act, and the Bellingham Municipal Code (BMC). They require that any development maintain No Net Loss of ecological functions.

The applicant acknowledged that the Chuckanut Marsh requires full flow control and hydroperiod protection for any new stormwater. They rejected using the Sea Pines outfall in RFI#3 because “stricter standards would apply”. This proves the applicant understands that using an existing outfall does not allow old stormwater standards to apply as the Washington State Supreme court found in 2016.

The same principle applies to the Arbutus outfall. Any net new stormwater entering Mud Bay must meet current standards for water quality and flow control. Poor standards are not grandfathered just because the outfall is old. The Washington State Supreme Court ruled in 2016 that any new development must comply with modern stormwater regulations.

Under Bellingham Municipal Code (BMC) 22.08.060 and Department of Ecology Stormwater Management Manual for Western Washington (DOE SWMMWW), all discharges to sensitive waters require treatment and flow control.

The Shoreline Management Act requires No Net Loss of ecological functions for waters of statewide significance, which includes Mud Bay.

Mud Bay deserves strong protection. Its designations and ecological importance mean that any stormwater routed through the Arbutus outfall must meet current standards for water quality and flow control.

Street Variances:

Under Bellingham Municipal Code (BMC) Section 23.48.040, a variance may only be granted when:

- There are special circumstances related to the property, not caused by the owner.
- Granting the variance will not harm public welfare or neighboring properties.
- The property cannot be reasonably used under existing regulations.

As addressed previously, the code clearly states that hardship must NOT be self-imposed. Designing a subdivision that requires multiple street variances is a choice, not a hardship.

Requested Variances for Internal Roads:

- Reduce pavement width from 36 feet to 28 feet.
- Eliminate on-street parking.
- Provide sidewalk on only one side instead of both.

These changes reduce safety and accessibility. Full standards exist to ensure emergency access and pedestrian safety.

Requested Variance for Viewcrest Road:

- Keep existing 22-foot asphalt width instead of improving to $\frac{3}{4}$ standard.
- Add a setback sidewalk but no parking improvements.

This does not meet Title 13 requirements for frontage improvements and compromises neighborhood connectivity.

Approving these variances would set a precedent for unsafe road design and undermine the intent of BMC 23.48.040. The hardship claimed is self-imposed because alternative designs could comply with code.

For these reasons, I respectfully ask you to deny the variance requests for internal roads and Viewcrest Road. Please uphold the standards that protect public safety and neighborhood integrity.

Blasting:

Why This Area is a Landslide Hazard:

The site contains steep slopes and mapped landslide hazard areas. These are identified in the geotechnical report and confirmed by the City's review.

An independent geologist, Dan McShane, identified six hazard areas, including the SE Bluff slope, which he called a Special Hazard Area.

The SEPA Report also confirms that the property includes geologically hazardous areas and steep slopes that require avoidance and minimization of disturbance.

The proposed stormwater pipe and some lots are adjacent to these hazard zones, making blasting especially risky.

Under Bellingham Municipal Code (BMC) section 16.55, which covers Critical Areas, developers must avoid and minimize disturbance in landslide hazard areas.

Blasting does the opposite. It creates vibration and fractures in steep slopes, increasing the risk of landslides and erosion.

The applicant already has four platted lots that are perfectly buildable without blasting. This proves blasting is not required for reasonable use of the property.

The applicant's own geotechnical report and an independent geologist, Dan McShane, both recommend against blasting because of slope stability risks.

Approving blasting would violate BMC 16.55 and BMC 23.04.050, which require that plats be feasible without causing environmental harm.

Safer alternatives exist, such as mechanical rock removal methods like hoe-ramming and wire-saw cutting.

For these reasons, I respectfully ask you to add a condition to the plat approval that prohibits blasting or the use of explosives anywhere on the site.

Canopy Retention:

The applicant claims that "approximately 80% of the site will be retained in natural vegetation." This sounds impressive, but when we look closely, this number is misleading.

Here are the facts:

- The Vegetation Management Plan divides the property into two areas:
Management Area #1 – land that will remain in natural vegetation.
Management Area #2 – land for roads, utilities, and home sites, where significant clearing and tree removal will occur.
- Most of the 80% figure comes from Management Area #1, which includes steep slopes, wetlands, and shoreline buffers. These areas are already protected by law under: Bellingham Municipal Code (BMC) 16.55 – Critical Areas, BMC 16.60 – Land Clearing, and BMC 22 – Shorelines. Counting land that cannot legally be cleared as "preserved" does not meet the intent of the code.
- Management Area #2 is where the real impact happens. Roads, driveways, and building envelopes will require extensive clearing and grading, as allowed under BMC 23.08.030(D). Future home construction will remove even more vegetation, but that is not reflected in the 80% claim.

The City's subdivision standards in BMC 23.08.030(C) require that natural features be preserved to the extent feasible. The intent is to protect trees and vegetation in buildable areas, not just in places that cannot be developed anyway.

Approving this project based on the 80% claim would allow the applicant to skew compliance by counting unbuildable land. This undermines the purpose of the code and the neighborhood plan.

For these reasons, I respectfully ask you to: Do not accept the 80% vegetation claim as evidence of compliance. Require the applicant to provide a realistic vegetation retention plan that accounts for clearing in buildable areas and future home construction.

Building Envelopes:

This project is located in the Edgemoor Neighborhood, Area 7, which is governed by the Bellingham Municipal Code (BMC). Area 7 is zoned for one unit per 20,000 square feet, and the Neighborhood Plan was designed to preserve the low-density character of Edgemoor.

Under BMC 23.08.060(D)(1), every lot in this subdivision must have a minimum building envelope of 60 feet by 60 feet. This requirement ensures that homes can be built safely and without excessive grading or environmental harm.

However, the applicant is asking for a 10% departure from this standard for 12 of the 38 lots. This building envelope reduction is in addition to the landslide hazard area buffer reduction from 50 feet to 10 feet. The building envelope reduction is allowed under BMC 23.48.030, but only if the departure is necessary and does not harm public welfare.

Here is why this matters:

- These 12 lots are already very small, some as low as 8,400 square feet, in a neighborhood where lots average 20,000 square feet.
- These lots are located on steep slopes and geologic hazard areas, which makes building even more difficult.
- Reducing the building envelope on these lots does not solve the problem—it creates unsafe building conditions and forces homes into areas that require more grading and tree removal.

The applicant claims this departure is needed because of site constraints. But the site is currently 4 large lots, and the developer chose to create 38 lots instead of fewer, larger lots

that could meet the code. This is a self-imposed hardship. The law does not allow departures just for convenience or profit.

Under BMC 23.48.030, the Hearing Examiner must find that the departure does not harm public welfare. Public welfare means protecting safety, environmental resources, and neighborhood character. Allowing smaller envelopes on hazardous slopes increases risk of landslides, removes more trees, and undermines the low-density character of Edgemoor.

A legally feasible alternative exists: fewer lots with full compliance. The project is not infeasible without departures—it is only infeasible at the proposed density.

For these reasons, I respectfully ask you to deny the requested departures or require the applicant to redesign the subdivision with fewer lots that meet the 60-foot by 60-foot building envelope standard.

Stormwater Outfall:

First, Mud Bay's shoreline is designated Natural under BMC 22.03.030, which means ecological function must take priority over development whenever there is a conflict. This is not optional—it is the law.

Second, BMC 22.08.210(A)(1) prohibits stormwater facilities where they would cause adverse impacts to shoreline ecological functions. “Adverse impact” is defined in BMC 22.10.010 as a probable, significant harm. We don’t have to guess whether this design will cause harm—we have a baseline. The Arbutus outfall, located in the same pocket estuary, shows visible trenching, scarring, and beach degradation. That is real-world evidence of what happens when concentrated stormwater is discharged onto this sensitive shoreline. Adding another outfall will compound these impacts, violating the SMP’s no net loss standard.

Third, Using the Arbutus outfall with its visible trenching, scarring, and beach degradation as our baseline also triggers the conflict clause in BMC 22.03.030(A)(2)(e) that states: Preservation of ecological function of shorelines including critical areas should have priority over public access, recreation and development objectives whenever a conflict exists. A conflict arises when two goals are incompatible—for example, a proposal that degrades ecological function in order to achieve development or access.

Fourth, BMC 22.08.210(B)(5) allows new outfalls in shoreline buffers only if there is no feasible alternative. Feasible in this context is a legal term and not aspirational as its use in common language meaning might suggest. The applicant has not demonstrated that alternatives are infeasible. Under SMP policy, “not developing” is a feasible alternative

when impacts cannot be avoided. Preference or cost does not override ecological protection.

Finally, BMC 22.06.030(C)(2) requires that any proposal be clearly consistent with SMP goals and intent. Those goals include restoring pocket estuaries and achieving no net loss of ecological function. No net loss is a legal term and is not an aspirational goal. No net loss must implement mitigation sequencing as outlined in BMC 22.08.020. This proposal does the opposite—it degrades a shoreline of statewide significance.

In summary:

- The Natural designation mandates protection over development.
- The Arbutus outfall proves harm is predictable, not hypothetical.
- No feasible alternatives analysis has been provided.
- Shoreline Management Plan goals and legal standards are not met.

Improvement to Fieldston and Willow Roads as neighborhood collectors:

The proposed Woods at Viewcrest project does not comply with BMC 20.00.060, specifically the Prerequisite Consideration requiring “Improvement to Fieldston and Willow Roads as neighborhood collectors.” This requirement exists to ensure safe and adequate transportation infrastructure before additional development occurs in Area 7.

This property is the last large buildable lot in Edgemoor area 7, and the improvement requirement was clearly intended for this site. Yet, the developer has made no commitment to upgrade Fieldston or Willow Roads, and the City is not requiring any such improvements as a condition of approval. Instead, the City is recommending approval of reduced street standards internally, which further compounds the problem.

The purpose of prerequisite considerations is to prevent congestion and ensure coordinated development. Without collector-level improvements to Fieldston and Willow, this project will funnel additional traffic onto substandard roads, creating long-term safety and circulation issues for the neighborhood.

The Edgemoor Neighborhood Plan and BMC 20.30.080 make it clear that prerequisite considerations are not optional—they are intended to be addressed before or as part of development approval. If the City chooses not to enforce this requirement, it must explain why in its findings of fact. To date, no such explanation has been provided.

I urge you to find that the application is inconsistent with BMC 20.00.060 and require compliance with the prerequisite consideration before approval.

Closing:

1) Procedural frame: consolidated review requires a single, coherent, legally compliant proposal.

This is an applicant-elected consolidated permit hearing. Under RCW 36.70B.120, consolidated review is designed to integrate all project permits into one open record hearing and one decision, not to piece-meal fundamentally different designs through sequential fixes. If the applicant chooses consolidation, the notice of final decision must address all permits included in the consolidated process.

The City's own procedures mirror this: BMC 21.10.060 allows consolidation across permit types with review at the highest process level. Consolidation thus presumes a cohesive application that complies with the code in its entirety.

2) Umbrella issues: Project-wide legal defects that cannot be cured by conditions.

The record shows project-wide conflicts with BMC 20.00.060 (Area 7 minimum lot size/average density), BMC 23.08.050(A)(6) (lot averaging floors), BMC 23.16.010(E) (each phase must “stand on its own”), and BMC 20.18.020 (variance criteria prohibiting self-created hardship). These are threshold compliance standards; they are not discretionary.

Likewise, the application conflicts with Title 22 SMP requirements, including “no net loss” and restrictions on stormwater facilities (BMC 22.08.210) in shoreline buffers absent proof of no feasible alternative. These are mandatory protections for shorelines of statewide significance.

3) The “82 lots by raw acreage” argument is not a legal compliance standard.

The applicant and City’s assertion that “as many as 82 lots” could fit on raw acreage ignores codified constraints—steep slopes, landslide hazards, shoreline buffers, and critical areas—which must be honored under BMC 16.55 and the SMP. Consolidated review does not license a theoretical maximum; it demands a code-compliant design.

4) Stand-alone issues—each independently warrants denial, even apart from the umbrella defects.

- Subdivision variances: The Examiner cannot vary minimum lot size, and variances must not grant special privilege; the application seeks relief for a self-imposed layout that pushes lots below hard floors. (BMC 23.48.040).
- Phasing: Phase 2 fails on its own; each phase must meet all standards without relying on future phases (BMC 23.16.010(E)).
- Stormwater/Tightline outfall: New outfalls within buffers are allowed only when no feasible alternative exists; the record does not demonstrate infeasibility, and SMP policies require no net loss and enhanced treatment (BMC 22.08.210; 22.08.110).

5) Remand vs. denial—why remand is not appropriate here.

Remand makes sense when minor, targeted corrections could cure deficiencies or when evidence was omitted but the core design is otherwise legally sound. City procedures confirm that higher bodies may remand for omitted evidence or an insufficient record—not to invite fundamental redesign. (See BMC 1.26.020(E)(2) on remand triggers in closed-record appeals; by analogy, remand is a tool for filling gaps, not rebuilding a noncompliant proposal.)

Here, the defects are structural and pervasive—lot size floors, phase compliance, shoreline protections, and critical area buffers. Correcting them would require a wholesale reconfiguration of the subdivision (lot counts, phasing, stormwater strategy, and hazard buffers). In a consolidated permit posture, the appropriate remedy for a plan that cannot be made compliant by minor tweaks is denial, not remand. This approach aligns with the Local Project Review Act’s purpose of producing a single, legally supportable decision at the end of a consolidated process.

6) Precedent and legal principle supporting denial where redesign would be fundamental.

Washington land-use practice recognizes that variances and departures cannot cure self-created hardships; approvals must be grounded in the property’s conditions, not the applicant’s chosen yield. Denial is proper when the applicant seeks exceptions to

accommodate a design that cannot meet mandatory code. (See variance criteria and limits in BMC 23.48.040, and general principles in variance systems across Washington.)

Further, under LUPA the standard for relief rests on legal error or lack of substantial evidence; designing a fundamentally different project after a consolidated hearing undermines the integrity of the record the Examiner is required to build. The consolidated process exists to streamline to a final, code-based decision, not to facilitate post-hearing reinvention.

7) Conclusion—deny the consolidated application.

Because the umbrella defects permeate the proposal and the stand-alone issues independently fail, this application cannot be cured by minor conditions. Given the consolidated posture, and the applicant's own choice to proceed this way, the legally appropriate remedy is to deny the consolidated permits. The applicant retains reasonable use today with the four existing, buildable lots—no variances required, no harm to Mud Bay or Chuckanut Marsh. A fundamentally different, code-compliant subdivision—if pursued—must return as a new application consistent with BMC and Title 22 SMP, rather than through remand.



Public Comment

Name

Miles Silverman

Full name or organization

Your name is required for identification as a part of the public record.

Choose Topic

The Woods at Viewcrest

Topics available for online public comment are listed above. If no topics are listed, there may be opportunities for public comment on various topics through email, letters, and public comment periods during meetings.

More information on this topic can be found at <https://cob.org/project/the-woods-at-viewcrest>

Comment or Testimony

Hello,

I am writing out of concern that this project does not help Bellingham become a more resilient, vibrant, or affordable city.

Bellingham's fiscal position is shaky as of now, so our policy decisions should actively work to steady it. Urban3's analysis of Eugene, OR found that detached single-family housing "generally runs at a slight deficit with regards to its ability to pay for infrastructure." With this in mind, detached housing should be relatively limited, and generally located in places where infill at a later point is feasible. This project is located on the edge of town, far from any density or point of interest that would incentivize future incremental development, however, it seeks to build complete urban infrastructure that the city will need to maintain. Ironically, the inclusion of sidewalks worsens this situation, as their inclusion increases maintenance costs while being unlikely to provide walkability, although the excessive street width to allow double-parking is probably more egregious in this regard.

Vibrant urban places must have many people near one another to allow many amenities near one another, and must be able to incrementally adapt to maintain their vibrancy. Denser housing, even that of moderate density like townhouses, can create the population density needed to foster these communities, and may be both more compatible with and easier to connect to multimodal infrastructure. Places where people can walk or bike to their destinations are safer and more pleasant to be in, and contribute to the city's environmental goals. Furthermore, a variety of housing types supports community stability by allowing people to stay in a neighborhood even as their housing needs change. In contrast to all of this, the proposed project, where not surrounded by water, joins a monoculture of low-density, car-dependent houses that are unlikely to enable the urban places that Bellingham sorely needs more of.

With regard to affordability, this project will likely have some positive effect on housing prices by way of "filtering," but other housing types, such as those in the Infill Toolkit, tend to be more affordable even without public funding. Given that this project is lacking in other regards, this seems to me an insufficient justification for development.

Many other new developments in the city, such as those in King Mountain and the north of Cordata, are significantly less problematic in these regards. In these places, a mix of housing types strengthens the tax base to cover infrastructure maintenance costs, puts more people within walking distance of one another to create the potential for a vibrant community, and provides housing at more price points to improve the affordability and stability of the neighborhood. These have the potential to cultivate vibrant, sustainable urban places in a way that the proposed project is quite unlikely to do.

Please prioritize developments that consolidate Bellingham's wealth rather than diluting it.

Files

Documents or images related to your comments.

Email

selixmi42@gmail.com

Your email address will only be used to send you a copy of this comment and any official notifications related to this topic.

Date

1/4/2026

Kathy M Bell

From: Barbara Ingram <bing721@icloud.com>
Sent: Monday, January 5, 2026 3:17 PM
To: Kathy M Bell
Cc: G.Proj.Wood at Viewcrest
Subject: The Woods at View Crest - public comment letter

Some people who received this message don't often get email from bing721@icloud.com. [Learn why this is important](#)

CAUTION: This message originated from outside of this organization. Please exercise caution with links and attachments.

To: Kathy Bell, Senior Planner
Re: The Woods At Viewcrest Subdivision

Dear Ms. Bell,

Please include the following photos & comments in the public record for the application of The Woods at Viewcrest Subdivision.

This photo was taken at our home yesterday after a night of rain combined with a 9.9 foot king tide on January 4th, 2026, at 8:11am. This shows the level of flooding to the wetland adjacent to our home.



My name is Barbara Ingram and I live at 1617 Fairhaven Ave. with my husband Michael Ingram in Bellingham, Wa.

98229. Our house is directly east of the wetlands which are adjacent to and east of Mud Bay, otherwise referred to as Chuckanut Bay.

Mud Bay, a pocket estuary, changed in the 1920's when a railroad trestle was constructed with rip rap partially enclosing Mud Bay and impeding outflow of both tidal waters and Chuckanut Creek to Bellingham Bay. Since that time the level of mud, sediment and silt has built up increasing the level of mud and water in Mud Bay. As a consequence there is more frequent flooding events in the wetland directly to the west of our home. There has also been flooding and damage to private property nearby.



We are concerned about the excessive amount of stormwater that will come from this fully developed proposed project and feel that the applicant has not taken the necessary measures to meet code or even decide which method of stormwater management will be chosen. This decision should be made before an application is approved for a SEPA hearing. Based on this one point, the application appears to be incomplete. In one scenario the applicant mentions installing a tightline outfall at the high tide line of Mud Bay sending large amounts of water into Mud Bay which would grossly increase the amount of water in the pocket estuary, destroying the ecology of the estuary, the oyster, clam, mussel and sand dollar beds, the bird and wildlife habitat, changing the makeup of this body of water forever. The negative impacts of deforestation and creation of impermeable surfaces from this project will result in erosion, increasing the sediment and stormwater run off into Mud Bay. Mud Bay has experienced flooding events during king tides combined with snow and heavy rains which we have witnessed during the 5 year we have owned our home. Above and

below are photos of the wetland directly adjacent to our property. The photo directly above was taken by our security camera on December 27, 2022 after a heavy snow, followed by many inches of rain and a king tide. The second, below, is taken during the early summer sometime in the last 5 years showing a wetland without excessive water.



I would ask the City of Bellingham to be vigilant and responsible in ensuring that the laws and codes are followed so these negative impacts will not be realized under their watch. We want to live in our home for a long time and frequent flooding is a very real concern made more real by The Woods At Viewcrest's irresponsibly proposed development.

I am asking you to initiate an environmental impact study to prove that there are no negative impacts to the environment, the wetlands, wildlife, marine and birdlife, the salmon habitat and the public health of those who live near and enjoy the many treasures of Mud Bay's pocket estuary and wetland. In my opinion this project should not be

approved as proposed for the reasons I and so many others have and will continue to state at the SEPA hearing and public hearing.

Thank you,
Barbara Ingram
1617 Fairhaven Avenue



Public Comment

Name

craig moore

Full name or organization

Your name is required for identification as a part of the public record.

Choose Topic

The Woods at Viewcrest

Topics available for online public comment are listed above. If no topics are listed, there may be opportunities for public comment on various topics through email, letters, and public comment periods during meetings.

More information on this topic can be found at <https://cob.org/project/the-woods-at-viewcrest>

Comment or Testimony

I am opposed to this Project.

There is already too much traffic on Fairhaven Parkway. In the afternoon, it may take 5 or 6 traffic lights before a car heading to the East can get on I-5.

In the morning, going West on Fairhaven parkway, the traffic may be backed up on the off-ramp on I-5.

We have tried to preserve the attraction of Edgemoor and Fairhaven. This would destroy it.

Files

Documents or images related to your comments.

Email

ckmooremd@hotmail.com

Your email address will only be used to send you a copy of this comment and any official notifications related to this topic.

Date

1/5/2026

STEVEN SAVIANO

January 5, 2026

Ms. Kathy Bell, Senior Planner
Planning & Community Dev. Dept.
City Hall
210 Lottie Street
Bellingham, WA 98225

VIA: email to woodssvc@cob.org
USPS Priority Mail

Re: Plat for the Woods at Viewcrest / Written Comment for the Public Hearing on
January 14, 2026

Ms. Bell:

I am the owner of the property commonly known as 419 S Clarkwood Drive in Bellingham (Whatcom County Property ID #20088). I received the Notice of Hybrid Public Hearing regarding the hearing on January 14, 2026 pertaining to the project, "Woods at Viewcrest". I hereby submit written comment for the public record and the online published packet pursuant to said notice.

The aforementioned notice states several ways that the lots are proposed to be accessed, one of which is from, "a private driveway from S. Clarkwood Drive". I suspect that is referring to the driveway serving my property and the property adjacent to mine (417 S. Clarkwood Drive / Whatcom County PID #20095) and which transits over an exclusive easement. I hereby object to any and all use of that driveway and/or easement. No-one other than the owners of the Clarkwood properties containing the exclusive easement has a right of access.

Please record my objection for the record while I retain legal counsel to represent me in this matter.

Thank you very much for your attention to this matter and your assistance.


Steven Saviano



Public Comment

Name

Steven Saviano

Full name or organization

Your name is required for identification as a part of the public record.

Choose Topic

The Woods at Viewcrest

Topics available for online public comment are listed above. If no topics are listed, there may be opportunities for public comment on various topics through email, letters, and public comment periods during meetings.

More information on this topic can be found at <https://cob.org/project/the-woods-at-viewcrest>

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Thank you very much for your attention to this matter and your assistance.

Steven Saviano

Files

Documents or images related to your comments.

Email

mail@stevensaviano.com

Your email address will only be used to send you a copy of this comment and any official notifications related to this topic.

Date

1/5/2026

Kathy M Bell

From: luandglen@gmail.com
Sent: Tuesday, January 6, 2026 12:16 PM
To: G.Proj.Wood at Viewcrest
Subject: Mud bay

[You don't often get email from luandglen@gmail.com. Learn why this is important at <https://aka.ms/LearnAboutSenderIdentification>]

CAUTION: This message originated from outside of this organization. Please exercise caution with links and attachments.

Sent from my iPhone

Kathy M Bell

From: Donna Davis <wildenmdavis@gmail.com>
Sent: Wednesday, January 7, 2026 7:48 AM
To: G.Proj.Wood at Viewcrest
Subject: Woods At Viewcrest - Comments to Hearing Examiner

CAUTION: This message originated from outside of this organization. Please exercise caution with links and attachments.

To Whom It May Concern:

My name is Donna Davis, 338 Viewcrest Rd. Bellingham, WA 98229. I have lived and own my home at 338 Viewcrest Rd since August 2010.

I am submitting my comments to be submitted into record for the upcoming hearing on January 14, 2026.

I am very concerned about this proposed development on Viewcrest Rd.

1) The narrow Viewcrest Road does not support the kind of usage and traffic that would occur for this development. This narrow road barely supports the current traffic and people that walk along it with their children and dogs. The road also has a terrible blindspot coming up and down it in both directions.

2) The strong winds that blow along Viewcrest Rd. from the SW are often very strong and damaging. Any proposed houses to be built on that cliff will take the brunt of that wind and cause serious problems to the homes in wind destruction that will likely occur.

3) Because the permit applications and requested variances DO NOT COMPLY with important regulations designed to preserve the environment and protect public safety, I respectfully request the Hearing Examiner to deny these applications.

Respectfully submitted,
Donna Davis
338 Viewcrest Rd.
Bellingham, WA 98229
wildenmdavis@gmail.com
Home 360-733-6778
Cell 360-319-5242