

May 2017 Draft Critical Areas Ordinance Update –Public Comment Received

v. 2 as of May 25, 2017

Comment #	Who	Topic/Comment	Method/When	Recommended Response
1 Public Comment Exhibit #1	Emily Authenrieth	Ms. Authenrieth’s written comment suggests adding a definition for “building setback” within the Draft CAO.	Email; 5/01/2017	Planning Commission recommends including building setback definition. See #1 of May 2017 Draft Critical Areas Ordinance Update Modification Document.
2	Joan Gorner, Poulsbo	Ms. Gorner provided verbal testimony to Planning Commission regarding Kitsap County’s Critical Areas Ordinance. Her comments were specifically regarding priority habitat and species, as identified by Washington State Department of Fish and Wildlife (WDFW) Priority Habitat and Species List. She provided the following comments as summarized: <ul style="list-style-type: none"> • The CAO or staff must prove a protected species exists before restricting the use of private property; • Due diligence should be followed when determining if a protected species exists; • When buffers are established, the rights of the private property owner must be equally considered. 	Verbal testimony at Planning Commission public hearing 05/17/2017.	No recommendation specific to this public comment.
3 Public Comment Exhibit #2	Molly Lee, Poulsbo	Ms. Lee provided written comment which was read at the public hearing. She provided the following comments as summarized: <ul style="list-style-type: none"> • Concerned about trails and utilities being allowed in buffers or wildlife corridor open space; 	Verbal and written testimony at Planning Commission public hearing 05/17/2017.	Planning Commission recommended that Ms. Lee’s comments regarding trails and utilities allowed in buffers should be reviewed by staff, and provide any appropriate

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		<ul style="list-style-type: none"> • Opposed to taking of private property through eminent domain, or taking of private property through use of open space and corridors, or trails; and • Allowing trails within in buffers is counter to environmental protections. 		<p>recommendations to City Council.</p> <p>Proposed changes to trails within buffers is identified as #2 on the May 2017 CAO Modification Document.</p>
4 Public Comment Exhibit #3	Rita Hagwell, Poulsbo	<p>Ms. Hagwell provided a packet of documents, and provided the following comments as summarized:</p> <ul style="list-style-type: none"> • Supports the 150’ buffer in the Draft CAO; • Does not support use of her property as a public trail; • Asked the City to take her property off the Urban Paths of Poulsbo plan; • Discussed Marelaine Lane, and went through the documents submitted in relation to Marelaine Lane. • Discussed Marelaine Lane is in need for maintenance and the City will not get involved. 	Verbal testimony at Planning Commission public hearing 05/17/2017.	No recommendation specific to this public comment.
5 Public Comment Exhibit #4	Molly Lee, Poulsbo	<p>Ms. Lee provided verbal comments at the City Council workshop. She recommends additional language to 16.20.320.G.1 regarding trails within fish and wildlife habitat conservation areas buffers and that they should be outside of buffers or on land dedicated by the property owner. She also reiterated her comments included in Public Comment Letter #2.</p>	Verbal comments at City Council workshop 5/24/2017.	Proposed changes to trails within buffers is identified as #2 on the May 2017 CAO Modification Document.

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		Ms. Lee submitted written comments of her verbal comments on 5/25/17, and is identified as Public Comment Exhibit #4.		
6	Rita Hagwell, Poulsbo	Ms. Hagwell provided verbal comments at the City Council workshop as summarized: <ul style="list-style-type: none"> • She owns land on both side of Johnson Creek. • She is concerned about public trails being required or taken on her property. • She is concerned that developers will profit and use her land as open space. • She agrees to offer up 200' on both sides of the creek. • She wants everything in writing. 	Verbal comments at City Council workshop 5/24/2017.	Proposed changes to trails within buffers is identified as #2 on the May 2017 CAO Modification Document.
7	Jan Wold, Poulsbo	Ms. Wold provided verbal comments at the City Council workshop as summarized: <ul style="list-style-type: none"> • Supports 200' buffer for Johnson Creek, but is still not wide enough. • 300' should be applied for salmon streams. • Trails should not be placed in buffers at all. • The variance allowing for a 25% width reduction in buffers should be deleted, or if kept, no more than 10%. 	Verbal comments at City Council workshop 5/24/2017	
8 Public Comment Exhibit #5	Alison O'Sullivan, The Suquamish Tribe	Ms. O'Sullivan provided written comments to the City as summarized: <ul style="list-style-type: none"> • Invasive species should be changed to 'noxious weeds (Class A and B)' throughout the document. • Page 3.B "This title applies to all uses and activities with areas or adjacent to areas 	Email to Planning and Economic Development Department 5/25/2017	Recommend incorporating suggested changes by Ms. O'Sullivan.

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		<p>designated as regulated critical areas or their buffers unless...</p> <ul style="list-style-type: none">• Page 61: may want to require stormwater controls for larger, paved trails.		

From: emily authenrieth
To: [City of Poulsbo Planning and Economic Development](#)
Subject: FW: City of Poulsbo - Public Hearing CAO
Date: Monday, May 01, 2017 2:44:26 PM
Attachments: [7.1 PC Public Hearing Notice May 16 17.pdf](#)

I suggest that "building setback" (from page 4) be defined in the Definitions chapter.

Thank you.

Emily Authenrieth

From: Helen M. Wytko [mailto:hwytko@cityofpoulsbo.com]
Sent: Monday, May 1, 2017 9:24 AM
Cc: Karla Boughton <kboughton@cityofpoulsbo.com>
Subject: City of Poulsbo - Public Hearing CAO

Hello,

You are receiving this notice because you have signed up to receive notifications on updates to the City of Poulsbo Development Regulations.

The Poulsbo Planning Commission, in its role as citizen advisory committee for land use regulations, has completed its review of the April 2017 Draft Critical Areas Ordinance, through a series of three workshops. The Planning Commission have identified a number of modifications to the April draft, and a May 2017 Planning Commission Modified Draft Critical Areas Ordinance has been released and is available at the following link: <http://www.cityofpoulsbo.com/planning/caoupdate.htm> The Planning Commission modifications are reflected in this draft as blue **bold underline** for additions and ~~blue strikeout~~ for deletions.

The Planning Commission has scheduled a public hearing on the May 2017 PC Modified Draft Critical Areas Ordinance for Tuesday, May 16, 2017 beginning at 7 p.m. at Poulsbo City Hall, Council Chambers, 200 NE Moe Street. Public comment on the May 2017 PC Modified Draft Critical Areas Ordinance is welcome at the public hearing, or as written comments, submitted to the City at plan&econ@cityofpoulsbo.com

Thank you for your interest in the City of Poulsbo.

Helen Wytko

Poulsbo Planning and Economic Development
Phone: 360-394-9748
200 NE Moe St
Poulsbo, WA 98370

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Received 5/16/17

Helen W planning tech
HW

P-173

Input regarding city of Poulsbo CAO
 planning commission Public Hearing May 16, 2017
 from Molly Lee

Item I page 7 New Addition should instead
 say

" Shall be provided as much as possible
 at specific points rather than parallel
 to the buffer. If parallel trails are
 necessary; only after exhausting all of
 the requirements of section 16.20.320
 items G 1, 2, 3, and 4, they shall be
 located only in the outer 25 percent of the
 buffer".

This new language reflects the same protective
 stance that utility corridors and easements are
 required to have in item 5c page 62.

" Any additional utility corridor or easement
 access for maintenance shall be provided
 as much as possible at specific points
 rather than by parallel roads".

Item B4 p. 43

Sentence

" Where trails are permitted within buffers
 they should be located on the outer portion
 of the buffer and as far as possible from
 the wetland edge".

Should be removed and replaced with:

Input DOLLSBO CAO

Planning Commission public hearing May 16, 2017
Molly Lee

"Where trails are permitted within buffers; after exhausting items 61, 2, + 3, they shall be located in the outer 25 percent of the buffer"

This would be consistent with new language in item 65.

The city did not supply a definition for "corridor"; therefore I will be using the quotes from city officials in the "partial transcription of city council meeting dated October 13, 2010 from Bkat video regarding the subject of the 2010 Comp plan Amendments regarding Johnson Creek Open Space and Johnson Creek wildlife corridor", including a map. Exhibits A+B.

This document states that corridor uses the same definition as open space and does not change the original intent of the comp plan.

The cities plan on TABLE 16.20.2300 p. 38, identifies pets and human activities as examples of disturbances that impact wetlands - which includes streamside wetlands.

Examples of minimizing pet and human disturbances to wetlands are:

input PoulsBOCA@

Planning Commission public hearing May 16, 2017
Molly Lee

"USE privacy fencing, plant dense vegetation to delineate buffer edge and to discourage disturbance using vegetation appropriate for the ecoregion, place wetland and its buffer in a separate tract".

Putting public trails into open space or corridor buffers creates a negative impact that is minimized by eliminating pets and humans, and having robust vegetation in the buffers.

LANGUAGE within government Comp plans employ terms and maps that make it simple to ~~embrace~~ ^{encroach} or "take" private properties. Exhibit C. This includes terms like open space and corridors; and the use of Public trails maps.

I am not interested in my property being taken by these or any other means, by the city or county, to provide a public trail system.

Putting public trails within any buffers is counter to environmental protections, which are the preexisting limitations. It would be unconstitutional and would ultimately harm the public.

Molly Lee

[REDACTED]

Partial transcription of City Council meeting dated October 13, 2010 from BKAT video

The subject is the 2010 Comprehensive Plan amendments regarding Johnson Creek Open Space and Johnson Creek Wildlife Corridor.

(When the viewer tried to access these particular meeting minutes from the City of Poulsbo's website, the meeting minutes, although shown on the webpage, were unable to be viewed. This is the reason for this partial transcript from the BKAT recording.)

Discussion of comp plan changes for 2010 on item 2010 – 09:

Jeff Bauman: *are there changes being made regarding open space designations and if so what are those changes and what are the implications?*

Karla Boughton: *I think what the citizen was referring to is on the list of projects the 2025 parks system acquisition and improvement list. There was a change that came forward to the planning department from the parks director working with the parks commission that changed a project that is currently in the comp plan that is called Johnson Creek open space to Johnson Creek wildlife Corridor. And then there is a new sentence added to this that says that this project would acquire properties as they become available or easements for future trail connections along the corridor. So I can't speak to the conversation that the parks commission may have had on why they changed the name. But I think that's what that question or that comment was referring to. That is the only thing in this whole packet that's referring to Johnson Creek wildlife Corridor.*

Jeff Bauman: *as a practical matter, does it change what happens in the corridor or the original intent of the comp plan?*

Karla Boughton: *oh no, certainly not.*

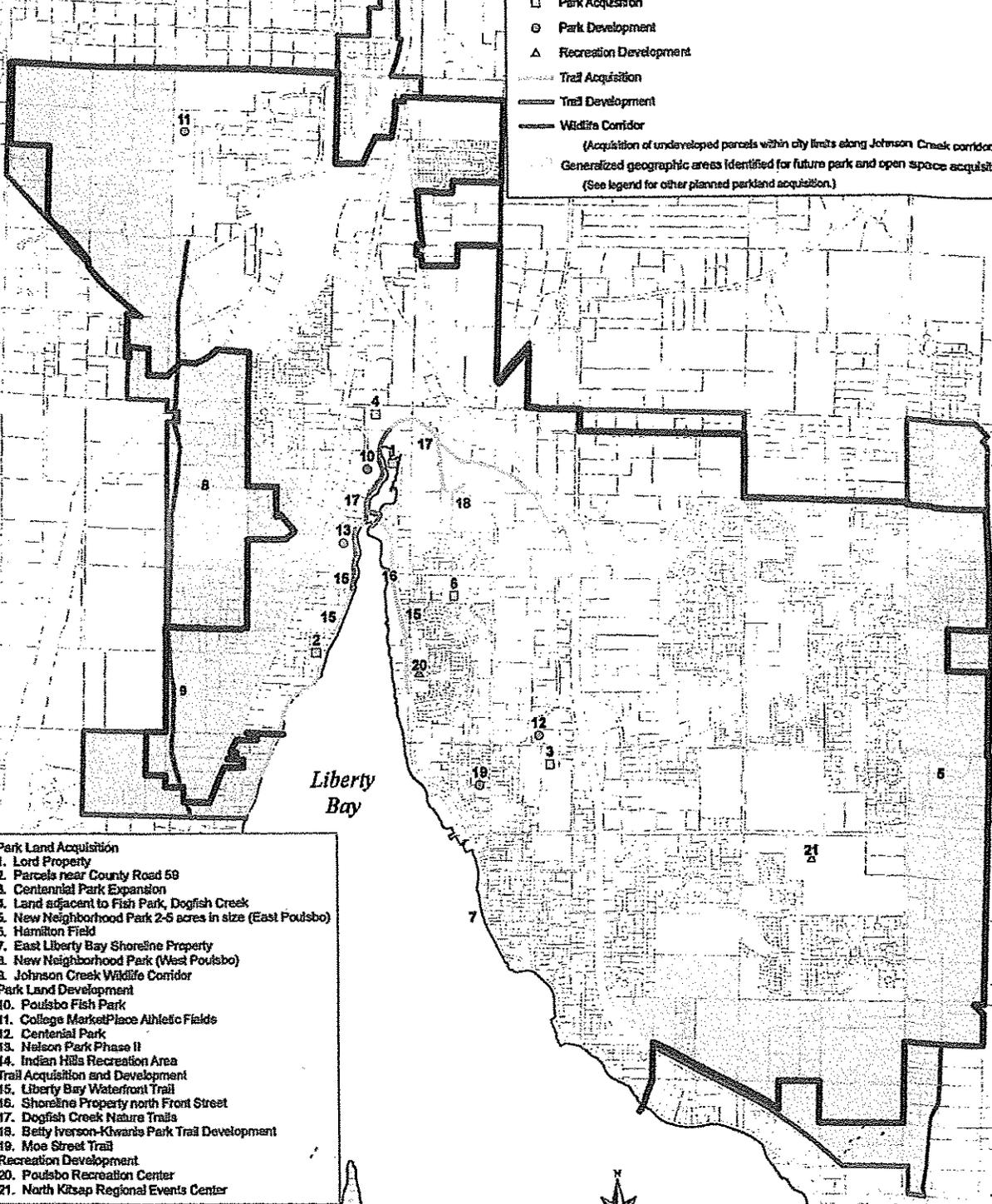
>Becky Erickson: *there is no open space definition change I guess it is what we are saying I think it just got or has a different label on it. Someone in the background: it's semantics. Becky Erickson: It's semantics. Correct? There is no definition change here. Okay. Just make that clear.*

CITY OF POULSBO
 Kitsap County, Washington
 Land Use Comprehensive Plan Map Series
 Adopted December 2, 2008
 Effective December 18, 2008
 Amended Effective December 8, 2010
 Figure PRO-2

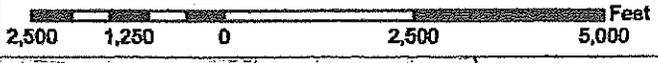
2025 Park Development & Land Acquisition Goals

Legend

- City Limits
- Urban Growth Area
- Park Acquisition
- Park Development
- Recreation Development
- Trail Acquisition
- Trail Development
- Wildlife Corridor
 (Acquisition of undeveloped parcels within city limits along Johnson Creek corridor)
- Generalized geographic areas identified for future park and open space acquisition
 (See legend for other planned parkland acquisition.)



- Park Land Acquisition**
1. Lord Property
 2. Parcels near County Road 58
 3. Centennial Park Expansion
 4. Land adjacent to Fish Park, Dogfish Creek
 5. New Neighborhood Park 2-5 acres in size (East Poulsbo)
 6. Hamilton Field
 7. East Liberty Bay Shoreline Property
 8. New Neighborhood Park (West Poulsbo)
 9. Johnson Creek Wildlife Corridor
- Park Land Development**
10. Poulsbo Fish Park
 11. College MarketPlace Athletic Fields
 12. Centennial Park
 13. Nelson Park Phase II
 14. Indian Hills Recreation Area
- Trail Acquisition and Development**
15. Liberty Bay Waterfront Trail
 16. Shoreline Property north Front Street
 17. Dogfish Creek Nature Trails
 18. Betty Iverson-Kwanis Park Trail Development
 19. Moe Street Trail
- Recreation Development**
20. Poulsbo Recreation Center
 21. North Kitsap Regional Events Center



Comprehensive Plan Map Series Primary Map Sources and Original Scales:
 Kitsap County Assessor's Tax Maps 1:12,000 (Kitsap County IT, GIS Division)

Figure PRO-2 maps the City's 2025 Park Development and Land Acquisition Goals. The parkland acquisition and development project descriptions are in the Comp Plan Section 2 - Capital Facilities Plan's park section.

This comprehensive plan map series is intended for general comprehensive planning. These maps are schematic representations of physical features, infrastructure and land ownership boundaries. The map information was derived from available public records and existing sources, not from surveys. Studies may be necessary with project review to verify information.

exhibit c

- Peninsular Thinking - <http://pugetsoundblogs.com/peninsular-thinking> -

Waterfront pathway process complicated by federal regulations

Posted By [Chris Henry](#) On November 20, 2013 @ 7:57 pm In [City of Port Orchard, Property rights, Recreation and Leisure](#) | [No Comments](#)

Owners of five Beach Drive properties are alarmed anew at news the Port Orchard City Council has taken the next step toward construction of a public waterfront pathway that could go right through their homes.

The city recently approved a contract that sets in motion steps for possible acquisition of the properties by eminent domain. But other options are being considered, and taking of the properties is far from a done deal, City Engineer Mark Dorsey stressed. The contract includes financial capacity and authority for Universal Field Services to negotiate with the property owners on total acquisition, when and if the city council gives the OK.

The council needs to know the pros and cons of all options, Dorsey said, which is why the contract includes the most extreme scenario. Under other scenarios, the houses could be left standing, but there are liability and public safety issues.

Property owners are miffed that city officials didn't personally contact each of them before the contract was approved. To explain why, we need to get down into the weeds, so hang with me here.

First, let's jump back to 2011. The property owners have known for at least two years that eminent domain is a possibility. The issue came up in a properly noticed public meeting in which the council discussed early design of the pathway, causing an uproar from the property owners. According to homeowner Randy Jones, then-Mayor Lary Coppola visited him a day or two after the meeting. Coppola assured Jones that the eminent domain option was at that time hypothetical and the taking of his home was not imminent, Jones recently said.

That's still the case. It will take the city a long time to jump through the hoops of regulations put into play by a \$300,000 federal grant the city accepted under previous Mayor Kim Abel for preliminary design of the pathway.

The grant requires Port Orchard to complete the whole path, one way or another — through the homes or around them — or the city must return the \$300,000.

The Bay Street Pedestrian Pathway is seen as a great amenity by most city officials. Two segments are already completed and have been well-used. So it's unlikely the city will turn back now, but that's yet another option the council will weigh, according to Dorsey.

The city faces the same use-it-or-lose it issue with the Tremont Street Corridor, where more than \$3 million in federal funds were used for design. According to Dorsey, the federal government, dispersing money through the state Department of Transportation, used to spread money around "like peanut butter," leaving a trail of partially completed public works projects. Since 2009, the feds require assurance grant-supported projects will be completed, making it harder on public officials, but reducing the likelihood that taxpayers' money will be squandered on nice ideas never executed.

So why didn't Port Orchard officials recently come knocking at the property owners' doors? Under one of the federal grant regulations, the city must use an intermediary to contact residents about the potential taking of their properties to avoid the appearance of "collusion," according to Dorsey. The law requires a clean division of roles. The city, acting on the public's behalf, could be seen as having a conflict of interest were any staff members or elected officials to discuss the eminent domain issue with property owners outside of a public meeting.

rec'd PCPH 5/16/17
Rita Hagwell

LAW OFFICES OF

JANE RYAN KOLER

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Tel. (253) 853-1806 • Fax (253) 851-6225 • www.jkolerlaw.com
Jane Ryan Koler

A Professional Limited Liability Company

zoning

land use

real property

environmental

June 28, 2012

Sent via e-mail

mayorrebeccaerickson@cityofpoulsbo.com

Mayor Rebecca Erickson



Rita Hagwell
PO Box 1141
Poulsbo WA 98370-0076

Dear Mayor Erickson:

I represent Gilbert & Rita Hagwell who owns property located at [redacted], Poulsbo, Washington. Recently, they were quite surprised to discover in a City publication, *Urban Paths of Poulsbo, Washington*, that the City plans to construct urban paths on their residential property.

Be advised that the Hagwells have no intention of allowing urban paths on their residential property. The City would need to acquire their land in an eminent domain proceeding.

Because the City has made no effort to purchase the Hagwells' property, it is entirely inappropriate for the City to give notice to the world that it is planning, at some future date, to develop urban paths on their land. In the absence of the public purchase of the Hagwells' property, showing urban paths on their land is an instance of condemnation blight; the City is apparently attempting to drive down the value of their property by declaring to the world that it will be taken at some unknown future date for urban paths. That act would discourage purchasers from acquiring the Hagwell land and drive down the value of it.

The City is engaging in deliberate conduct to drive down the value of the Hagwells' property. Such conduct must cease at once unless the City plans immediately to pay the Hagwells the fair market value for their residential acreage; the City needs to delete the pages from *Urban Paths of Poulsbo, Washington* publication showing urban paths on the Hagwell land. *Using fitness to steal land.*

Do you hesitate to contact me with any questions about this matter.

SISU

I do not want

Very truly yours,

to move, I had

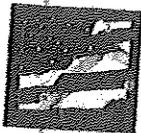
LAW OFFICES OF JANE RYAN KOLER, PLLC

a ^{very} sick husband since

Jane Ryan Koler
Attorney

Nov 2010 to Dec 2013

I did my best to defend myself against these people. They have not won yet!



Rita Hagwell
PO Box 1141
Poulsbo WA 98370-0076

2

April 13 2017

If you have open space near your property you can help developers! They can double the number of houses they can build. Your land would be their open space. This is allowed!

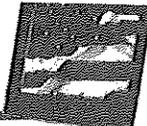
Be careful if your house/land is in danger. The value of your place may go down!

What is the motive for trails? Who will secretly profit?

The city is eventually going to include Eminent Domain on my land! It is now in a condemnation blight because of trails

Rita

Alyse S. Nelson



Rita Hagwell
PO Box 1141
Poulsbo WA 98370-0076

3

669

From:
Sent:
To:

Linda Berry-Maraist
Sunday, May 13, 2012 1:06 PM
Mary M. McCluskey; Alex.Stone@nps.gov; Alyse S. Nelson; Bruce Ramsey, Cass Quinn (cassquinn@gmail.com); Chuck Driver (c.driver@comcast.net); David Wymore (david_wymore@nps.gov); David Wymore (ranger_david@comcast.net); Degracia, Patricia; Diana Meade (meade04@wavecable.com); Edie Lau (lauwilliams@embarqmail.com); Hans Nilsson (hansnilsson@msn.com); Haroldlouis@comcast.net; Jennifer Wiegand; Joel Brose (mdbrose@comcast.net); John Kuntz (jkuntz@silverlink.net); JOHN WHITLOW; Kate Kuhlman; Kate Nunes (kate.nunes@amec.com); Keri A. Weaver; Kirk Stickels (portofpoulsbo@yahoo.com); Lee Derror (lderror2@yahoo.com); Marianne Smiley (mariannesmiley@embarqmail.com); mecarter779@hotmail.com; Pat Keim Strayer (strap12@comcast.net); Rick Feeney; rlrans@earthlink.net; Tabor Reedy (taborreedy@gmail.com); Val Martinson (donnvalm@msn.com); BarbKSmithson@gmail.com; Ryan Farncomb
Subject: Poulsbo Trail Plan Hearing 5/16 & opposition
Attachments: WSCC TRAILS support letter May 2012-1.doc

Subject:
Attachments:

This person will profit from trails near/on property (investments) on VIKING

All,
The Poulsbo Trail Plan is expected to be voted on at the City Council meeting this Wednesday 5/16 (meeting at 7 p.m.). I'm attaching a letter from West Sound Conservation Council objecting to the Waterfront trail and trails in proximity to creeks (like Fish Park and Wilderness Park). Fish Park is generally lauded as one of the best examples of environmental stewardship in an urban area in our region. The Clear Creek Trails system is another example of combined environmental stewardship and trails. Poulsbo has a very protective Critical Area Ordinance which would guide any actual future development of trails in sensitive areas. A pink line is just a concept, it is not a project proposal.

There has been alot of misinformation spread about Poulsbo's Trail Plan and private property but I've copied the statement from page 19 of the Plan, stating that trails on private property would be voluntary, at the bottom of this email.

Staff has made some changes to Poulsbo's trail Plan, including revisions to the map clearly addressing the concerns of Liberty Bay Condominiums and making the pink line of a conceptual foot path even more wiggly. Link to revised map: http://www.cityofpoulsbo.com/planning/documents/exhibit_1_figure_pro_3.pdf Link to the revised plan (changes highlighted) http://www.cityofpoulsbo.com/planning/documents/exhibit_2_revised_upp.pdf

I would encourage you to attend the Council meeting this Wednesday and speak about your involvement in, and support for the Trail Plan. You can also email councilmembers@cityofpoulsbo.com If you were on the Trails committee or on the Parks Commission, please point that out.

We believe in the US Constitution

When I attended the State Trails conference in 2008 (when Mary learned Poulsbo received the National Park Service grant), I was surprised to learn that opposition to trails is often couched in terms of property rights and environmental protection. So opposition to trails using those arguments is not unprecedented. The featured speaker at that Trails conference led symposiums for the Sierra Club on what he terms *Nature Deficity Disorder*, and is the author of "The Last Child in the Woods" <http://sierraclub.typepad.com/greenlife/2009/06/book-roundup-wednesday.html>

Personally, I believe that the environmental impact of humans, is most certainly not caused by people walking on footpaths. Poulsbo's trail planning efforts were guided by the National Park Service. The Sierra Club has been an advocate for trails and conservation from it's inception. It is my summers as a highschool student volunteering with the Sierra Club on trails, which made me a passionate supporter for both.

Many of you have worked very hard in support of Poulsbo's Trail Plan, please consider doing what you can to help in this final push.

Linda

Sept 18, 2013

From page 19: Poulsbo's Trail Plan
Connectivity across private property
Poulsbo is already substantially developed in many areas of the city. It also doesn't have opportunities for trails that many cities with abandoned rail lines have to create connections. In some instances, the proposed trail network shows connections

The people in Liberty Bay Condo got their property off a map

across private land. These are shown on the maps with a pink "conceptual" line. Where conceptual connections are shown across private property they are intended to indicate general desirable areas to be linked, and future negotiations with the interested and willing property owners might take place. Bikeways and/or walkways will not be developed across private land without the owner's consent or a preexisting easement. Locating trails on private property will be voluntary on the part of the private property owner.

4 Sept 18, 2013

Linda Berry-Maraist
Poulsbo City Council
Position 1

Hagwell spoke at City Council Meeting

The more people see trails on private property the less shocking it becomes. This is a propaganda tool! This is a way to brainwash people! This is a City Council person

putting one group against another

She is saying private property (ms Maraist) is just an excuse for not wanting trails

This statement is a betrayal of public trust since she (ms Maraist) is supposed to represent all the people of Poulsbo.

She will profit from trails near/on her Vikery investment property. This statement smells of amoral opportunism

WRH



Rita Hagwell
PO Box 1141
Poulsbo WA 98370-0076

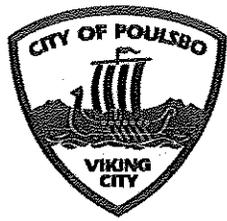


This is a way to take land, This is how it is done for the greater good in Cuba, Russia, etc

Urban Paths of Poulsbo

Poulsbo, Washington

Parks Dept
has more booklets
like this. They
are 6.00 and sold to
public



Rita Hagwell
PO Box 1141
Poulsbo, WA 98370

This is the cover of the booklet that lists my land as a trail in the future

retired teacher husband
Korean War hero disabled

Thank you for coming here
asphalt power pole

What is UPP Plan
Urban Paths
Poulsbo

1973

1 person or class of persons for different treatment without a rational basis to do so and has singled out
2 certain property owners to bear the burden. There has been unequal impact for all property owners.
3
4 *Who am I How long on property taxes*
5 Rita Hagwell and other property owners who have signed petitions have a legally protected
6 property right such as the right to possess or exclude and in the unrestricted right of use, enjoyment
7 and disposal. Anything which destroys any of these elements of property, to that extent destroys
8 property itself. The substantial value of property lies in its use. If the right of use be denied, the value
9 of the property is annihilated and ownership is rendered a barren right. These rights have been
10 affirmed by the State Supreme Court.

11 **Rita:** In this case, Rita Hagwell and others own property that has been directly impacted by the
12 UPP Plan. The application of the UPP Plan conceptual trail overlays on the Hagwell and other
13 neighbors' properties will affect ownership value by diminishing the ability to sell private property
14 at full market value. Future buyers will be deterred when informed that a public trail system will
15 adversely impact their exclusive use of the property.

16 In addition, the overlay intrudes into Petitioners' property with no ability for the Petitioners
17 to exclude the City's intrusion. As discussed later, Petitioner Hagwell has a proposed bike trail that
18 runs the length of her driveway in an east/west orientation. Ms. Hagwell also has a trail drawn
19 north/south through the middle of her wooded five acres that bisects the other path in an "X," or
20 cross formation. The City's map depicts the bike path inside the protected area for her well, which
21 provides her domestic water supply. *The Hagwells have water rights from WA State*
22 The City's depicted walking trail, that will contribute dog urine
23 and feces, is nearby, ~~near~~ *with the well* just uphill of the well. These trails could potentially impact the quality of
24 Petitioner Hagwell's well water and water is a protected property right. *Water rights State of WA 1973*
25 Petitioner Hagwell would
26 have a constant stream of the public with their pets traversing back and forth in the natural woods

bought Power pole

m their
1 edge ~~adjacent~~ to their back yard. There would also be a constant stream of people on bicycles next
2 to their house on their driveway. *and on the lane which they*

3 **Molly: The City acted in both a discriminatory and arbitrary manner when it took the**
4 **challenged action.** *1/2 paved and put a power pole*

5 Some property owners within the City of Poulsbo-selected trail routes are being unduly
6 burdened and uniquely impacted by the UPP Plan.

7 Petitioners, through their Opening Brief and Reply Brief, along with argument they
8 will present at this Hearing on the Merits, have demonstrated that the City of Poulsbo's
9 action in adopting Ordinance 2012-09 was clearly erroneous.

10 In Petitioners' Opening Brief, the importance of the Goal 6, the property rights goal,
11 in GMA actions was articulated. Petitioners' noted the standards by which the Growth
12 Management Hearings Board has found a violation of Goal 6 occurred – the action was
13 arbitrary and discriminatory and impacted a property right. Opening Brief at 3.

14 The City of Poulsbo does not dispute these standards or that Petitioner Hagwell has
15 a protected property right. City Response at 2. Rather, the City asserts that its actions
16 were not baseless, did not disregard the facts and circumstances, nor did its actions
17 disproportionately affect certain property owners.

18 The City quotes from a survey of "citizens" on trails that it completed in early
19 2009, in which nearly 50% of the people who took part in this survey did not live in
20 Poulsbo. Index 68 at 1 and City Reply Brief at 11.

21 When asked about trail locations that should be given top priority, the surveyed
22 respondents supposedly listed West Poulsbo as one area of a list of 10 different areas of
23 concern for trails in Poulsbo. Response Brief at 11. However, the Poulsbo Urban Trail
24 Plan Committee's meeting minutes of June 11, 2009 state that "So far, about 250 people
25
26

1 The City of Poulsbo does not dispute these standards or that Petitioner Hagwell has
2 a protected property right. City Response at 2. Rather, the City asserts that its actions
3 were not baseless, did not disregard the facts and circumstances, nor did its actions
4 disproportionately affect certain property owners.
5

6 The City quotes from a survey of "citizens" on trails that it completed in early
7 2009, in which nearly 50% of the people who took part in this survey did not live in
8 Poulsbo. Index 68 at 1 and City Reply Brief at 11.

9 When asked about trail locations that should be given top priority, the surveyed
10 respondents supposedly listed West Poulsbo as one area of a list of 10 different areas of
11 concern for trails in Poulsbo. Response Brief at 11. However, the Poulsbo Urban Trail
12 Plan Committee's meeting minutes of June 11, 2009 state that "So far, about 250 people
13 have taken the survey ... and that the SW quadrant in the vicinity of Johnson Creek had
14 not received comments yet." Index 56 at 2.
15

16 The March 7, 2007 *Kitsap Sun* article discusses City Councilmember Berry-
17 Maraist's desire for a critical area ordinance with smaller, more flexible buffers along
18 Johnson Creek adjacent to her development property. Index 524 at 3 and Index 608 at
19 24. City Councilmember Berry-Maraist also opines that larger, 300-foot buffers along
20 Johnson Creek would take away \$3.8 million in property value from the 18 owners along
21 the creek, including her property. Index 524 at 3. Her husband, Douglas Maraist, stated
22 at a Poulsbo Critical Area Ordinance hearing as follows: "This property on Johnson
23 Creek was going to be my path to retirement." Index 524 at 3. Again, the focus appears
24 to be on personal financial reward for the City's decision-makers. Councilmember
25
26

1 Berry-Maraist was the only city councilmember on the City of Poulsbo's Trails
2 Committee from its inception to its end. Index 56 at 1, Index 70 at 1, Index 260 at 1.

3 The record shows that City Councilmember Berry-Maraist submitted a letter on
4 April 9, 2007 that she and her neighbors could "enhance the value of all of our properties
5 if we work together to make it a shared greenbelt with walking trails." This is in
6 reference to her development property surrounding Johnson Creek. Index 608 at 24.

7
8 On May 5, 2009 Councilmember Berry-Maraist sent an email to Mary McCluskey,
9 Director of Poulsbo Parks and Recreation, Val Martinson and Bruce Ramsey, both trail
10 committee members stating as follows: "I have property on the south end of Viking on
11 Johnson Creek and had talked to about eight neighbors about trails and a shared
12 greenbelt ..." Index 611B. She then tells Poulsbo Trail Committee member Val
13 Martinson, who had been tasked with walking and reviewing trails in some of West
14 Poulsbo, that when Val Martinson walked down Cedar Lane, she crossed Johnson
15 Creek and should look for a location to put a trail "via a road to the Johnson Creek
16 corridor. I'm [Councilmember Berry-Maraist] hoping that we can eventually link a trail
17 through the corridor [Johnson Creek] north to College Marketplace/OC and south
18 towards the Clear Creek Trail." Index 611B.

19
20 This specific pushing to get a trail in the Johnson Creek corridor, where it would
21 have to pass through Councilmember Berry-Maraist's development property, seems to
22 fit well with financial aspirations for a publically funded trail. A trail in her development
23 also would result in her ability to gain approval for higher densities as a development
24 incentive. This would also result in a personal financial reward. Additionally, if a trail
25 can be placed either in the buffer or across the corner of a development property, it
26

1 takes away little or no development land for the trail, but the trail results in density
2 incentives for the developer. City Planned Residential Code Section 18.80, PMC 19.01.
3 There was no interest in a Johnson Creek trail expressed by any of the 250 people who
4 responded to the trail survey. The final total of citizens responding to the trail survey
5 was 273. Index 229 at 2. Moreover, Val Martinson apparently did not comment on it
6 either. In fact, there is no indication in the record that anyone, at any time, has
7 requested or pushed for a trail on Johnson Creek except Poulsbo Councilmember Linda
8 Berry-Maraist.
9

10 Councilmember Berry-Maraist then took it upon herself alone to summarize the
11 Poulsbo Trail Survey results. The September 10, 2009 Poulsbo Urban Trail Plan
12 Committee minutes state as follows: "Linda [Berry-Maraist] had spent time over the last
13 weekend, reviewing the survey questions and responses so that the summary will have
14 a common voice. ... Mary thanked Linda [Berry-Maraist] for taking the time to
15 consolidate the responses." Index 70 at 2. Afterward, the results show that West
16 Poulsbo is in the top ten areas for trails. However, the record, specifically the survey,
17 does not support such a result. Index 68. The Trails Committee did not even mention
18 Johnson Creek when they discussed the top three locations for connections to North
19 Kitsap trails. The connection to "Viking Way at the ball fields" is at the northernmost end
20 of Viking Way, far away from Johnson Creek. Index 168 at 2.
21

22 When reviewing the record, one notes that the reference to West Poulsbo says
23 "connection to" west Poulsbo not "in" west Poulsbo. Index 229 at 3. Presumably,
24 people are looking for connections, from east and downtown Poulsbo, "to" west Poulsbo.
25
26 Some of these connections have been completed since 2009. Connections currently

1 decision, baseless, and in disregard of the facts and circumstances. It is also detrimental to
2 fisheries habitat, including anadromous fish, and wildlife habitat in the City's only wildlife
3 corridor.

4
5 The decision to place the lines and arrows in this location and fail to respond to the
6 Johnson Creek petitioners with equality leads one to believe that the City of Poulsbo has singled
7 out the Johnson Creek area, and private property owners in that area, to bear the burden of
8 supplying trail locations for all the citizens of the Poulsbo area and bear the burden of supplying
9 off-street trail locations for the entire City. This action is discriminatory.

10 One city councilmember has apparently determined that she can gain financially if there is
11 a trail at some location on her development property, allowing her to have greater density
12 bonuses and greater financial gain upon development. Index 611B. This is arbitrary and
13 discriminatory decision making.

14
15 Some property owners were able to get the proposed trails moved off their private property.
16 Others, who were just as involved, were not able to get the proposed trails moved off their private
17 property. This was most evident on the west side of Poulsbo in the Johnson Creek drainage. This
18 drainage is the only wildlife corridor in Poulsbo. Index 608 at 6, 9, 14, 21, 23.

19 Several citizens spoke at the Planning Commission hearing of March 13, 2012 about their
20 concern over trails being located on maps on their private property. Index 537.

21
22 David Wells and his wife, Stephanie Wells (a City of Poulsbo Planning Commissioner),
23 owners of Bjorgen Creek Estates, were able to get the trail removed from their private property.
24 Index 511. They live next door to Becky Erickson, mayor of Poulsbo, on their small development
25 named Bjorgen Creek Estates, which borders Bjorgen Creek. On the May 16, 2012 map, the trail
26 was moved from the west side of their property completely out of the more natural part of their

1 property onto Noll Road, a busy road inside the Poulsbo city limits. Index 668. It does not have
2 sidewalks in that area. There is a group of large schools up the road from this area. If the City is
3 sincere about building trails in more natural wooded areas away from road edges, as they suggest
4 they must on Petitioner Hagwell's property, just such an opportunity exists on the mayor's farm
5 acreage. Mayor Erickson's farm has a large area of woods adjacent to Noll Road that could support
6 a trail. The Erickson woods begin a few feet from the City-proposed Noll Road trail location
7 adjacent to a busy roadway. In the mayor's neighborhood, however, the City removed the proposed
8 trail location from the Wells property, where it had been located well away from the busy roadway,
9 and relocated it to the road shoulder. Index 511, 606 and 668.

11 Numerous people voiced their opposition to trails being located on their private property.
12 People signed petitions declaring their wishes not to have a trail on their property. Index 515, 608 at
13 25-33 and 611C.

15 As discussed earlier, on the west side of Poulsbo, in the Johnson Creek drainage, only those
16 people located in the unannexed UGA, which is still in the county, had the trails removed by the
17 City from their private property, apparently at the urging of the county commissioner. People
18 involved in the amendment process who signed petitions and own property within the Poulsbo city
19 limits in the Johnson Creek drainage were unable to convince the City to remove trail locations from
20 their private property. Index 515 and Index 608 at 25-33.

22 **2. Petitioner Hagwell's Property is Arbitrarily and Discriminatorily Impacted.**

23 The final approved UPPP and city booklet available for purchase by the public still show the
24 "pink line" trail on Petitioner Hagwell's private property. Index 688. This announces that at some
25 future date the City of Poulsbo is planning to develop both the "pink line" trail for a walking path
26 going north/south as well as a blue line running east/west on Hagwell's driveway, also shown on

1 maps as Marelaine Lane. Index 668. These trail locations are available to everyone who views the
2 Poulsbo UPPP booklet. The same information is available on the Internet.

3 Any potential purchaser of Petitioner Hagwell's property in the future would have the trails
4 proposed on their future property. One is a bike path and the other is a walking path. This has a
5 debilitating effect on the value of Petitioner Hagwell's five acres, should the Hagwells ever wish to
6 sell. This discouragement of purchasers and the resultant lower sales price is an instance of
7 condemnation blight. *Lange v. State*, 86 Wn.2d 585 (1976).

8
9 The walking trail was originally located next to the creek in the Johnson Creek buffer on
10 Petitioner Hagwell's five-acre private property. This trail location is depicted on the UPPP map
11 PRO-3, dated December 23, 2011. Index 608 at 34. Then it was moved to an easterly location,
12 crossing north to south, through the middle of the garage on Petitioner Hagwell's private property on
13 the UPPP map dated April 18, 2012. Index 606. This map was given to the Poulsbo City Council
14 members, apparently at, but not before, the Poulsbo City Council public hearing held on April 18,
15 2012. Index 606. This trail map was not provided to the public at the hearing held on the night of
16 April 18, 2012. In fact, there is some documentation that the mayor and planning staff were
17 completing these documents just before the meeting. Perhaps that is why the City Council did not
18 get the verbiage and maps until the meeting started and why the citizens were told that they could
19 not have a map. Index 601, 606.
20
21

22 Later, on May 16, 2012, the UPPP trail was moved up the hill slightly to the west in what
23 appears to be the Hagwell's back yard. Index 668. The final UPPP shows both trails on Petitioner
24 Hagwell's five-acre property in their final resting places. This map was not made available to the
25 public before or during public testimony. The map was only made available some days after the
26 hearing. The public had no opportunity to comment at the hearings, except on earlier versions of the

1 trail map, before that week's changes made behind closed doors, apparently without city council or
2 public participation! The mayor apparently gave copies to the city council at the meeting and then
3 discussed it verbally at the city council hearing of May 16, 2012. She and the City provided no
4 copies to the public. Copies were not made available to the public until after the hearing was closed.
5 In most cases, the public could not obtain copies of the map for many days thereafter.
6

7 Petitioner Hagwell stated on numerous occasions that she wanted neither a walking trail on
8 her property, nor a bike trail on her driveway, including on May 9, 2012. Index #6.

9 **Arbitrary and Discriminatory Nature of City's Action Demonstrated by**
10 **Removal of Trails from Liberty Bay Estates**

11 The maps dated December 23, 2011 (Index 608 at 34) and April 18, 2012 (Index 606) had
12 numerous trail locations in West Poulsbo (the area west of Liberty Bay and Dogfish Creek). The
13 minutes of the Poulsbo City Council meeting of April 4, 2012 stated the following: "Hans Neilson
14 [sic], Liberty Bay Estates, commended the City and staff on the Comprehensive Plan and expressed
15 concern with the proposed trail through Liberty Bay Estates on the Urban Trails of Poulsbo map."
16 Index 566. However, at the Poulsbo City Council meeting of April 11, 2012, as recorded in the
17 minutes, "Hans Nelson [sic] expressed concern with private property rights, with the conceptual map
18 indicating a trail through the Liberty Hills [sic.] property." Index 569. Hans Nilsson, owner of
19 private property and a board member of the Liberty Bay Estates Condominiums, stated in a letter
20 dated April 18, 2012, that their "private property is not available for public trails." Index 613.
21

22 After comments from the Liberty Bay Estates condominium owners, the City drew up a new
23 map. The map, dated May 16, 2012 (Index 668), has several trail sections deleted, including the
24 section that had been located at the front of Liberty Bay Estates condominiums. Index 668. This
25 map, apparently at the county commissioners' request, also deletes some trail locations from the
26 non-annexed UGA where private property is still located in the county. Index 668. The city's

1 regulation, and the change is proposed after the opportunity for review and comment has
2 passed under the county's or city's procedures, an opportunity for review and comment on
3 the proposed change shall be provided before the local legislative body votes on the
4 proposed change.

5 (b) An additional opportunity for public review and comment is not required under (a) of
6 this subsection if:

7 The Trail Plan was part of an environmental impact statement such as that done for
8 the initial Comp Plan. This Trail Plan was not part of an environmental impact statement.

9 The city is required to choose to plan establish and broadly disseminate to the public a public
10 participation program identifying procedures providing for early and continuous public
11 participation in the development and amendment of comprehensive land use plans and
12 development regulations implementing such plans. The procedures shall provide for broad
13 dissemination of proposals and alternatives, opportunity for written comments, public
14 meetings after effective notice, provision for open discussion, communication programs,
15 information services, and consideration of and response to public comments.

16 The GMA requires that local governments take steps to actively involve the public in the
17 process of developing, adopting, and amending comprehensive plans and development regulations.

18 The Growth Management Hearings Board has long held that public participation is a "hallmark", the
19 "bedrock," a "keystone," "the very core" for GMA planning. The public participation requirements
20 of the GMA have even been called "elaborate procedures" by the Washington State Supreme Court.

21 While Petitioners recognize that during the amendment process proposals change, the revised
22 amendments must still be within the scope of the original action. The effect of a city's actions in
23 changing the amendment may not resemble a classic advertising "bait and switch." A city cannot
24 advertise to the public and interested agencies that it intends to do one thing and then, "at the
25 eleventh hour" do something else entirely, precluding the public from having a meaningful
26 opportunity to comment. Quoting the Orton Farms GMHB decision: The city cannot assert a
proposal was "on the table" when there was no notice "indicating that the original menu of what
would be 'served at the table' had changed."

Marelaine Lane
Marelaine Lane

rec'd PCPH 5/16/17
Rita Hagwell

2. Since the time that my husband and I purchased our home in 1971, the Lillesvens and Fairfields had access to their home to the north from Cedar Lane. In fact, their address was on Cedar Lane. They traveled from Cedar Lane to Finn Hill Road. Their home was not accessible from Marelaine Lane. The wooden logging bridge over the creek had weakened and collapsed in the 1940's or 1950's. Thus, it was impossible to cross the creek to reach the Lillesven or Fairfield home from Marelaine Lane.

3. No road has existed on any of what the Marmon declaration calls "road segment A" during the time that I have owned my home.

4. My husband Gilbert and I assumed exclusive responsibility for developing and maintaining our segment of Marelaine Lane (the western portion of road segment B). It was a primitive dirt road when we bought our property. We assumed sole responsibility for paying for the asphalt; we paid \$1,575 for the asphalt, which was a lot of money in 1974. We installed underground utilities and on January 23, 1973, we paid more than \$1,000 to remove the old power pole that was weak and was too close to the center of Marelaine Lane. We replaced it with a new power pole (#995240) and transformer in a location on our property away from the road.

5. There was an old logging road that led north to Liberty Road from Brown's home that they or their visitors used periodically. I allowed Browns to use my western portion of segment B of Marelaine Lane, which I paved and was maintaining exclusively, as a matter of neighborly accommodation.

*Councilwoman
PSC
process
one
31
Pole
called
Linda
Berry
Marant
about
pole?*

*Why is it Linda B Marant
business to call up Energy Co*

John Johnson may have sold land to California developer Jeff Hartman
land now called

Poulsbo
land
develop
calls
it
West
Poulsbo
LLC

6. The claim that the John Johnson or West Poulsbo LLC 40-acre property is landlocked is absolutely false. The owners of this 40-acre property have had access to the north over Cedar Lane since at least the mid-part of the last century. Moreover, John Johnson has had a development agreement with Brad Watts to develop the 20-acre Watts property. John Johnson also purchased a property with a house on Liberty Road, which connects to the north of the Watts 20-acre property. This agreement and John Johnson's property on Liberty Road provide access to Liberty Road for the 20-acre Watts parcel. This, in turn, provides John Johnson's or the West Poulsbo LLC's 40-acre parcel with access to Viking Way via Liberty Road and via the Watts property. John Johnson also shows a planned connector road in a development application to Kitsap County that runs from Viking Way to his 40 acres hundreds of feet north of the Marelaine Lane terminus at Viking Way. This provides John Johnson or West Poulsbo LLC with two access points onto Viking Way without requiring access through Marelaine Lane. Additionally, he has the historic access through Cedar Lane and Finn Hill Road to the north.

7. The reason there is such a big fuss about my little road segment (west portion of road segment B) is that West Poulsbo LLC wants to develop a large residential subdivision on its 40-acre parcel. West Poulsbo LLC apparently wants to use Marelaine Lane for sewer lines and as its second point of access into the subdivision. I do not want hundreds of cars traveling down my little road. Moreover, I do not want sewer lines just feet from my home or my domestic water well, which has

water rights. During the period of my ownership of my little road (west portion of

DECLARATION OF RITA HAGWELL IN SUPPORT
OF REPLY TO WEST POULSBO, LLC RESPONSE -3

LAW OFFICE OF JANE RYAN KOLER, PLLC
P.O. Box 2509
5801 Soundview Drive, Suite 258
P.O. Box 2509 - Gig Harbor, WA 98335
Office (253) 853-1806 - Fax (253) 851-6225

43

NORTH KITSAP GRAVEL AND ASPHALT COMPANY

Page No. _____
of _____ Pages

Rte. 2, Box 305

Telephone 779-4441
Telephone - Bremerton ZENITH 9499 (No Toll)

Poulsbo, Washington

779 2262

PROPOSAL

DATE: July 20 1973 1973	DATE:
SUBMITTED TO: Gilbert Hagewell	JOB NAME: Gilbert Hagewell residence
STREET: Route 2 Box 81	STREET: route 2 box 81
CITY: Poulsbo Washington	CITY: Poulsbo Washington

We hereby submit specifications and estimates for:

Finish grade for paving
Furnish and place necessary rock for bedding
Treat with weed killer
Furnish and place 2" compacted asphalt bituminous plant mix
Area to be paved:

loop road; 322 lin. ft. by 10' wide
parking 20' x 10' 20' x 10' 35' x 24'
side walk 46' x 4' end 13' x 20' average

sales cost	\$1500.00
sales tax	75.00
total	\$1575.00

We hereby propose to furnish labor and materials - complete in accordance with the above specifications, for the sum of:
Fifteen hundred seventy five and ~~00~~ ⁰⁰ dollars (\$ 1575.00) with payment to be made as follows:

Payment in full on completion

All material is guaranteed to be as specified. All work to be completed in a workmanlike manner according to standard practices. Any alteration or deviation from above specifications involving extra costs, will be executed only upon written orders, and will become an extra charge over and above the estimate. All agreements contingent upon strikes, accidents or delays beyond our control. Owner to carry fire, tornado and other necessary insurance. Our workers are fully covered by Workmen's Compensation Insurance.

NORTH KITSAP GRAVEL and ASPHALT COMPANY by

NOTE: This proposal may be withdrawn by us if not accepted within _____ days.

Acceptance of Proposal

The above prices, specifications and conditions are satisfactory and are hereby accepted. You are authorized to do the work as specified. Payment will be made as outlined above.

Accepted:

Signature

Date

Signature

July 23/73

Gilbert A. Hagewell
Mary Rita Hagewell

APR - 73036002

WATER RIGHT CLAIM

1. NAME GILBERT R MAGWELL
ADDRESS RT 2 Box 81
POULSBRO ZIP CODE 95370

Well
w or it could
have been
Lane owned

2. SOURCE FROM WHICH THE RIGHT TO TAKE AND MAKE USE OF WATER IS CLAIMED: GROUND WATER
(SURFACE OR GROUND WATER)

A. IF GROUND WATER, THE SOURCE IS WELL W.P.A. 15
106 FT DEEP (LEAVE BLANK)

3. THE QUANTITIES OF WATER AND TIMES OF USE CLAIMED:
A. QUANTITY OF WATER CLAIMED 12 GALLONS PER MINUTE PRESENTLY USED ?
B. ANNUAL QUANTITY CLAIMED ? PRESENTLY USED ?
(ACRE FEET PER YEAR)
C. IF FOR IRRIGATION, ACRES CLAIMED _____ PRESENTLY IRRIGATED _____
D. TIME(S) DURING EACH YEAR WHEN WATER IS USED: ALL

4. DATE OF FIRST PUTTING WATER TO USE: MONTH 11-71 YEAR 71

5. LOCATION OF THE POINT(S) OF DIVERSION/WITHDRAWAL: _____ FEET _____ AND _____ FEET _____ FROM THE NE CORNER OF SECTION 22 BEING WITHIN 22-26 OF SECTION 22-26 T. 26 N., R. 1E (E.G.W.) W.M. IF THIS IS WITHIN THE LIMITS OF A RECORDED PLATTED PROPERTY, LOT _____ BLOCK _____ OF _____

(GIVE NAME OF PLAT OR ADDITION)
6. LEGAL DESCRIPTION OF LANDS ON WHICH THE WATER IS USED: THE NORTH HALF OF THE NORTH HALF OF THE NORTH TWO THIRDS OF GOVERNMENT LOT 2 SECTION 22, TOWNSHIP 26 NORTH, RANGE 1 EAST, WINDY WEST OF STATE HIGHWAY NO. 21 SITUATE IN KITSAP COUNTY, WASH.

RECEIVED

SEP 09 2009

KITSAP COUNTY HEALTH DISTRICT

COUNTY KITSAP

7. PURPOSE(S) FOR WHICH WATER IS USED: D. W. FILING, DRINKING, ETC

8. THE LEGAL DOCTRINE(S) UPON WHICH THE RIGHT OF CLAIM IS BASED: Appropriation

THE FILING OF A STATEMENT OF CLAIM DOES NOT CONSTITUTE AN ADJUDICATION OF ANY CLAIM TO THE RIGHT TO USE OF WATERS AS BETWEEN THE WATER USE CLAIMANT AND THE STATE OR AS BETWEEN ONE OR MORE WATER USE CLAIMANTS AND ANOTHER OR OTHERS. THIS ACKNOWLEDGEMENT CONSTITUTES RECEIPT FOR THE FILING FEE.
DATE RETURNED _____ THIS HAS BEEN ASSIGNED WATER RIGHT CLAIM REGISTRY NO. _____

I HEREBY SWEAR THAT THE ABOVE INFORMATION IS TRUE AND ACCURATE TO THE BEST OF MY KNOWLEDGE AND BELIEF.
X Gilbert R Magwell
DATE March 29 1973
IF CLAIM FILED BY DESIGNATED REPRESENTATIVE

My well has pure water

173-160-161 << 173-160-171 >> 173-160-181

WAC 173-160-171

Mareleine Lane was a Toking

Agency filings affecting this section

What are the requirements for the location of the well site and access to the well?

(1) The proposed water well shall be located on high ground that is not in the floodway.

(2) It shall be protected from a one hundred-year flood and from any surface or subsurface drainage capable of impairing the quality of the ground water supply.

(3) All wells shall not be located within certain minimum distances of known or potential sources of contamination.

(a) Some examples of sources or potential sources of contamination include:

(i) Septic systems, including proposed and reserve sites under a valid septic design: Provided, that the design has been approved for installation by a health authority;

(ii) Manure, sewage, and industrial lagoons;

(iii) Landfills;

(iv) Hazardous waste sites;

(v) Sea/salt water intrusion areas;

(vi) Chemical and petroleum storage areas;

(vii) Pipelines used to convey materials with contamination potential;

(viii) Livestock barns and livestock feed lots.

(b) Minimum set-back distances for water wells other than for public water supply are:

(i) Five feet from any existing building structure or building projection. Water wells shall not be located in garages, barns, storage buildings or dwellings. When locating a nonpublic water well adjacent to a building, the well location shall be measured from the building sewer and closest building projection.

(ii) Fifty feet from a septic tank, septic holding tank, septic containment vessel, septic pump chamber, and septic distribution box.

(iii) Fifty feet from building sewers, public sewers, collection and nonperforated sewer distribution lines except building drains

(iv) One hundred feet from the edge of a drainfield, proposed drainfield which has been approved by a health authority, and reserve drainfield areas.

(v) One hundred feet from all other sources or potential sources of contamination except for solid waste landfills.

(vi) One thousand feet from the boundary of a permitted or previously permitted (under chapter 173-304, 173-306, 173-351, or 173-350 WAC) solid waste landfill as defined by the permit; or one thousand feet from the property boundary of other solid waste landfills. Except, a variance may be granted if documentation is provided that demonstrates the construction and operation of the well adjacent to the landfill will not further degrade the environment and will not cause a public health risk.

(c) All public water supply wells shall be located by the department of health or the local health authority.

(i) Before construction begins, site approval must be obtained from the department of health, or the local health authority.

(ii) The requirements of the state board of health regulation regarding public water supplies shall apply.

(iii) This regulation includes requirements for zones of protection, location of the well, accessibility features, and certain construction requirements.

(4) In siting a well, the driller shall consider:

They want Mareleine Lane as part of their development

What is their planning? What to do with Mareleine Lane Well?

Planning etc
PO Box 1141
Poulsbo WA
98370

DECLARATION OF WELL COVENANT

Rita and Gilbert Hagwell, owners of the five acre parcel described with particularity in Exhibit 1 which is incorporated by reference herein declare that they have a well on their property. The location of the well is described with particularity in Exhibit 2 which is incorporated herein by this reference.

Washington law, to preserve the purity of the waters in the well, demands that no structures or property uses occur within a 100 foot radius surrounding the well.

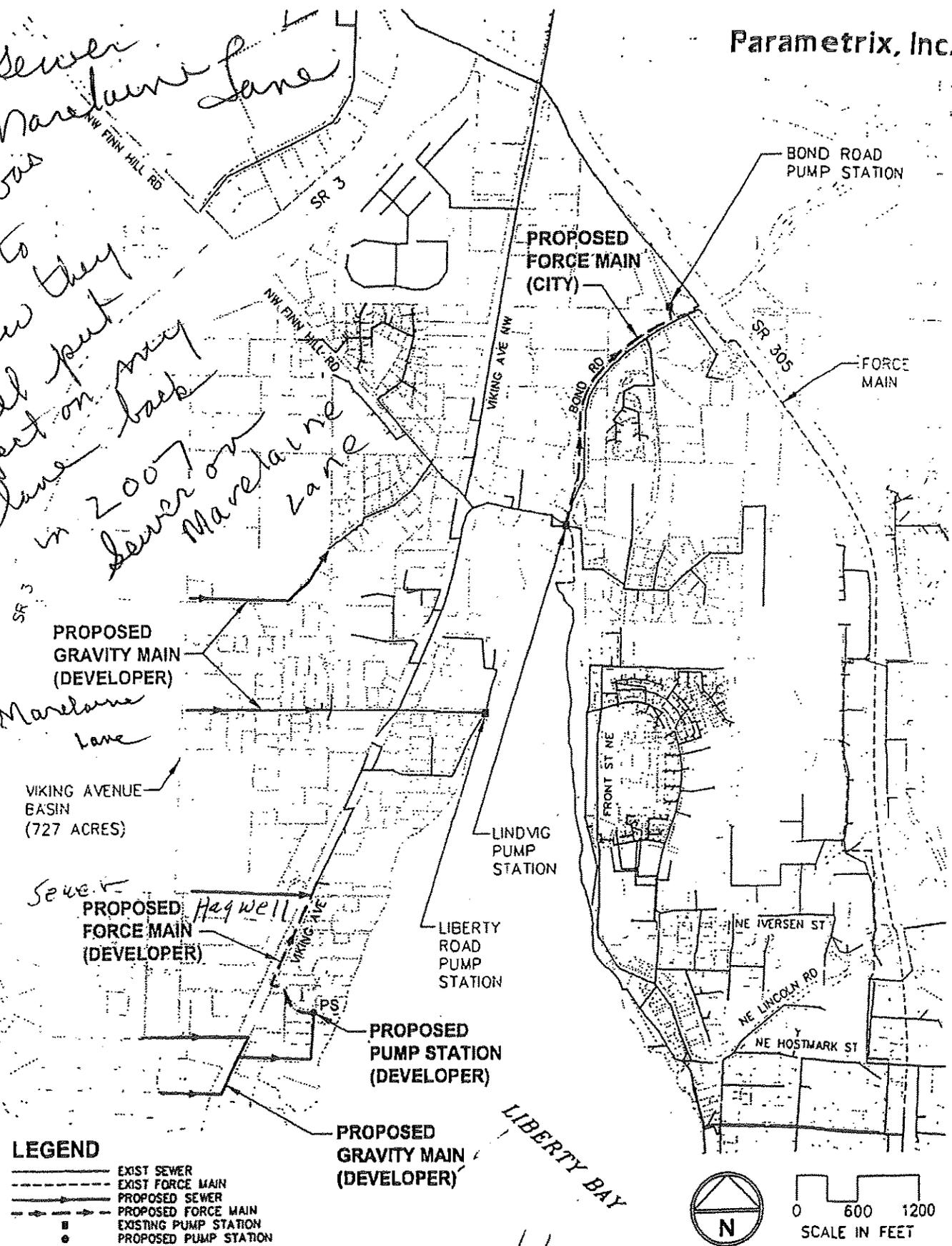
The area within the 100 foot radius is reserved for the exclusive purpose of ensuring the integrity and purity of the well and its waters.

NOW therefore, to obtain these objectives imposed by Washington law, Mr. and Mrs. Hagwell declare that nothing can be built or placed within the 100 foot well radius and no farming activities or any other type of activities can be pursued within that area. It is a buffer area which shall remain undeveloped and unused for any purpose.

This covenant shall run with the property and be binding on successors in interest.

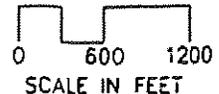
This was sewer map to show they will put project on my lane back in 2007 sewer on Marelaine Lane

FILE: 0822102801.DWG-C2
 DATE: MAR 21 2007 - 12:08pm PLOTTED BY: mchmores
 WASTE: FINN HILL SS AS-SUN1-1
 REC'S: 0822102801-00 | 0822102801-00 | 0822102801-00



LEGEND

- EXIST SEWER
- EXIST FORCE MAIN
- PROPOSED SEWER
- PROPOSED FORCE MAIN
- EXISTING PUMP STATION
- PROPOSED PUMP STATION



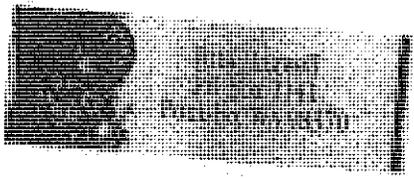
CITY of POULSBO
 COMPREHENSIVE SEWER PLAN



Mr Gilbert Hagwell
 PO Box 1141
 Poulsbo WA 98370-0076

Avenue Basin

FIGURE 4-1



CLIENT COPY

BEFORE THE KITSAP COUNTY SUPERIOR COURT

No. 09-2-02256-1

DECLARATION OF
MATTHEW T. WALTERS

RITA and GILBERT HAGWELL, a married
woman and a married man and their marital
community

Plaintiffs,

v.

NATHAN'S GLEN, Inc, a Washington
corporation

Defendant.

RECEIVED

APR 11 2017

PLANNING

I, Matthew T. Walters, make the following declaration.

I am over 18 years of age and have personal knowledge of the following facts
and could testify about such matters in court.

1. I am a Professional Land Surveyor and have been licensed by the State of
Washington since 1998.

2. In preparation for making this declaration I have reviewed the declaration
of surveyor Mike McEvelly as well as the chain of title prepared by Fidelity National Title
dated January 24, 2012 for Marelaine Lane. I have also reviewed the abbreviated legal
descriptions on the Kitsap County cover sheets for deeds associated with the 1900

DECLARATION OF MATTHEW T. WALTERS-1

LAW OFFICE OF JANE RYAN KOLER, PLLC
P.O. Box 2509
5801 Soundview Drive, Suite 258
P.O. Box 2509 - Gig Harbor, WA 98335
Office (253) 853-1806 - Fax (253) 851-6225

1
2 conveyance from Anderson to Gronning and the 1904 conveyance from Gronning to
3 Lillesven. In addition, I have reviewed the 2006 statutory warranty deed between
4 Priddis and Nathan's Glen. I have also reviewed each of the documents reference in
5 the chain of title for Marelaine Lane.

6 3. These deeds show that the sole conveyance of the 16.5 foot road now
7 known as Marelaine Lane occurred when Anderson conveyed that road to Samuel
8 Gronning in 1900. After that date, the deeds reference in the chain of title show that
9 Samuel Gronning retained ownership of the east segment of Marelaine Lane and never
10 conveyed title to that land to another individual.

11 4. The chain of title indicates that the legal description of the land conveyed
12 to Mr. Nathan Priddis included the east segment of Marelaine Lane.

13 5. It is unclear why the deed conveying land to Priddis included the east
14 segment of Marelaine Lane since neither Gronning nor his successors had ever deeded
15 that property to anyone, according to the chain of title.

16 6. The chain of title shows that although the Fairfield to Priddis deed and the
17 2006 Priddis to Nathan's Glen statutory warranty deed includes the east segment of
18 Marelaine Lane, no one ever conveyed that land to either Priddis or Nathan's Glen.

19 7. Thus, that is probably why the 2006 Priddis to Nathan's Glen statutory
20 warranty deed contains two exceptions - - one exception states that Nathan's Glen
21 takes the property subject to the interest of the heirs of Samuel Gronning as described
22 in the 1900 Anderson to Gronning deed. Another exception contained in that statutory
23 warranty deed states that there is no guarantee of access to a public road. The east

DECLARATION OF MATTHEW T. WALTERS-2

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P.O. Box 2509 - Gig Harbor, WA 98335
Office (253) 853-1806 - Fax (253) 851-6225

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APR 11 2017

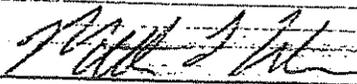
PLANNING

1
2 segment of the 16.5 foot road conveyed by Anderson to Gronning in 1900 connected to
3 Viking Way, a public road.

4 8. Thus, although Nathan's Glen claims that it "owns" the east segment of
5 Marelaire Lane, its ownership is subject to the interest of Samuel Gronning's heirs as
6 exhibited in the 1900 Anderson to Gronning deed.

7
8 I declare under penalty of perjury under the laws of the United States of America
9 and the State of Washington that the foregoing is true and correct.

10
11 DATED this 15th day of February, 2012 in TACOMA, Washington.

12
13 
14 Matthew T. Walters, PLS

15
16
17
18
19
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21
22
23
24 DECLARATION OF MATTHEW T. WALTERS-3

LAW OFFICE OF JANE RYAN KOLER, PLLC
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5801 Soundview Drive, Suite 258
P.O. Box 2509 - Gig Harbor, WA 98335
Office (253) 853-1806 - Fax (253) 851-6225

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Motion;
Friday, Jan. 20, 2012
1:30pm
Judge Hartman's
Calendar

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KITSAP COUNTY CLERK

JAN 13 2012

DAVID W. PETERSON

BEFORE THE KITSAP COUNTY SUPERIOR COURT

No. 09-2-02256-1

DECLARATION OF MIKE MCEVILLY

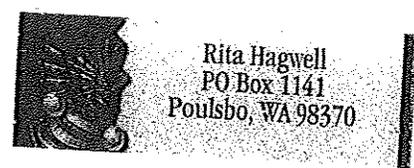
RITA and GILBERT HAGWELL, a married woman and a married man and their marital community

Plaintiffs,

v.

NATHAN'S GLEN, Inc., a Washington corporation

Defendant.



I, Mike McEvilly, make the following declaration.

I am over 18 years of age and have personal knowledge of the following facts and could testify about such matters in court.

1. Presently I am the Survey Project Manager at Sitts & Hill Engineers, Inc. in Tacoma, Washington.

2. I have been a licensed surveyor in the State of Washington since 2008.

3. I am the President of the South Puget Sound Chapter of Land Surveyors' Association of Washington.

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DECLARATION OF MIKE MCEVILLY-1

LAW OFFICE OF JANE RYAN KOBAYASHI
P.O. Box 2509
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P.O. Box 2509 - Gig Harbor, WA 98335
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2 4. I was recently elected to serve on the Executive Committee of the Land
3 Surveyors' Association of Washington.

4 5. I have reviewed the abbreviated legal description on the Kitsap County
5 cover sheet for the deed dated Nov. 13, 1900 from Anderson to Gronning as provided
6 by attorney Jane Koler which has been designated as Exhibit 1.

7 6. I have reviewed the abbreviated legal description on the Kitsap County
8 cover sheet for the deed dated June 30, 1904 from Gronning to Lillesven as provided by
9 attorney Jane Koler which has been designated as Exhibit 2.

10 7. I have reviewed the Statutory Warranty deed dated March 15, 2006 from
11 Priddis to Nathan's Glen Inc. including the list of exceptions contained therein as
12 provided by attorney Jane Koler, which has been designated as Exhibit 3.

13 8. Based on my review of such documents, I have sketched the limits of the
14 abbreviated 1900 and 1904 legal descriptions and the limits of the Statutory Warranty
15 Deed legal description and attached that sketch as Exhibit 4 to this declaration.

16 9. The abbreviated legal description on the Kitsap County cover sheet from
17 the 1900 Anderson to Gronning conveyance included the 16.5 foot wide (one rod)
18 parcel which extends east to Viking Way and is outlined in red. The other land included
19 in the abbreviated legal description on the Kitsap County cover sheet from the 1900
20 Anderson to Gronning conveyance is outlined in red as well on the attached sketch.

21 10. The abbreviated legal description on the Kitsap County cover sheet for the
22 1904 deed from Gronning to Lillesven does not contain the entire 16.5 foot wide parcel
23 described in the abbreviated legal description on the Kitsap County cover sheet for the

1
2 1900 deed; it excludes the east segment of the 16.5 foot wide parcel, delineated in red
3 on Exhibit 1 which now connects to Viking Way.

4 11. The limits of the legal description contained in the abbreviated legal
5 description on the Kitsap County cover sheet of 1904 deed does not provide a
6 connection between the Priddis/Nathan's Glen parcel and what is now Viking Way.

7 12. Two exceptions in the 2006 Priddis/ Nathan's Glen Statutory Warranty
8 deed may address this circumstance.

9 13. One exception states that the Priddis/ Nathan's Glen conveyance is

10 subject to:

11 Right, title and interest of the heirs and devisees of Samuel
12 Gronning by warranty deed recorded under Auditor's File no.
13 18400, Volumn 28, Page 380 and other parties claiming
14 possession to the South 16.5 feet of the Southeast Quarter
Of the Southeast Quarter of the Southwest Quarter of
Section 15, Township 26 North Range 1 East, W.M., lying
west of state Highway No. 3.

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15 14. A second exception states that the Priddis/Nathan's Glen conveyance is
16 subject to: " Question of right of access. We find no easement for ingress and egress
17 from said premises to a public road. Notwithstanding the insuring clauses of this policy,
18 the Company does not insure against any loss or damage by reason of lack of access
19 to and from the land."

20 15. The above documents which are attached to this declaration as exhibits 1-
21 3 are true copies of documents provided by Attorney Jane Koler; I learned from her that
22 she obtained such documents from the defendant in this matter in discovery. I have
23 made no effort to investigate any other documents in preparation of this declaration.

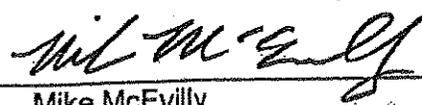
24 DECLARATION OF MIKE MCEVILLY-3

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P.O. Box 2509
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P.O. Box 2509 - Gig Harbor, WA 98335
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I declare under penalty of perjury under the laws of the United States of America
and the State of Washington that the foregoing is true and correct.

DATED this 13 day of January, 2012 in Gig Harbor, Washington.



Mike McEvilly

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APR 11 2017
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CHAIN OF TITLE TIMELINE FOR MARELAINE

This was from Commissioner Helder's research

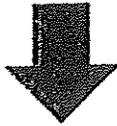
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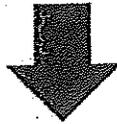
Sole conveyance of the 16.5 foot strip (road now known as Marelaine Ln.) occurred when Anderson conveyed the road to Gronning in 1900. Gronning retained ownership of the 16.5 foot strip and never conveyed title to another individual.

Holy Wee K



2017

On July 13, 1990, Fairfield sold to Priddis and included the 16.5 foot strip in the legal description. It is unclear why the deed conveying land to Priddis included the east segment of Marelaine Ln., since neither Gronning nor his successors had ever deeded that property to anyone, according to the chain of title.



Priddis sold to Nathan's Glenn (now called West Poulsbo's LLC) in 2006. The statutory warranty deed provided by the title company contained two exceptions. The first exception states that the property is subject to the interest of the heirs of Gronning as described in the 1900 Anderson to Gronning deed. The second exception states that there is no guarantee of access to a public road.



In 2009, is when the Hagwells sued Nathan's Glen due to Nathan's Glen attempt to get a prescriptive easement and quiet title on the 16.5 foot strip.

SUMMARY:

- The chain of title shows that although the Farfield to Priddus deed and the 2006 Priddis to Nathan's Glen statutory warranty deed includes the east segment of Marelaine Ln., no one has ever conveyed that land to either Priddis or to Nathan's Glen. Although Nathan's Glen claims that it "owns" the east segment of Marelaine Ln., its ownership is subject to the interest of Gronning's heirs as exhibited in the 1900 Anderson to Gronning deed

substo LLC

John Johnson - Priddis went to assess and started paying taxes on Marelaine Lane

PO BOX 1141
Poulsbo, WA 98370

This is Mordansk
four today



It is dangerous and sends a lot of dirt ~~out~~ into
Liberty Bay

The Hartman's would not cooperate to make
Marelaine Lane safe! They refused my letter!

Rita Hayward
PO Box 1141
Poulsbo WA 98370-0076

7026 1970 0000 7247 0739
CERTIFIED MAIL
7026 1970 0000 7247 0739

U.S. POSTAGE
PAID
POULSBRO, WA
98370
APR 18, 17
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Gray and Lucinda Hartman
E-12-17
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Ja Juana California

NIXIE 911 DC 1 7205/07/17
RETURN TO SENDER
REFUSED
UNABLE TO FORWARD
BC: 9837001111 *2152-04388-07-13

9837001111

RE: ~~_____~~ Viking, The
Hagwell's address!

PO Box

2017

Rita Hagwell
PO Box 1141
Poulsbo, WA 98370



April 3, 2017

West Poulsbo LLC

Jeffrey and Lucinda Hartman
336 Cajon Terrace

La Grana, California 92651

Mr and Mrs Hartman:

Your company has
ownership of the bottom of
Marelaine Lane. This

was bought from
Mrs & Mr Ulmer. I believe
they paid taxes on 1/2
of Marelaine Lane.

Enclosed are the papers
that show we improved/worked
on the other half of
Marelaine Lane. This is our part
of lane. We paved and then
paved again in 1991. We
paid for the electric pole.
We put our well and water
rights facing Marelaine Lane.
Now we have a problem

(2)

My car cannot remain clean on the outside because of the pot holes full of dirt.

I am disabled and am concerned about the condition of the bottom half of this lane. The pot holes may turn into a sink hole or holes.

Since Maréchal Lane is my only exit I became concerned about my safety to exit the area.

I already had to replace a tire that was less than a year old because of lane conditions.

I have spent much money clearing a walking path. My part of Maréchal Lane is fine because we have kept it up to a above average condition.

Please send people to repair this section of Maréchal Lane. Hagwell paved twice, bought electric/telephone pole, placed well with water rights all on Maréchal Lane.
A to Hagwell

I did not send Hartman well paper,
water right paper, electric pole, asphalt
upside! Let him search in court cases

sign
put
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by



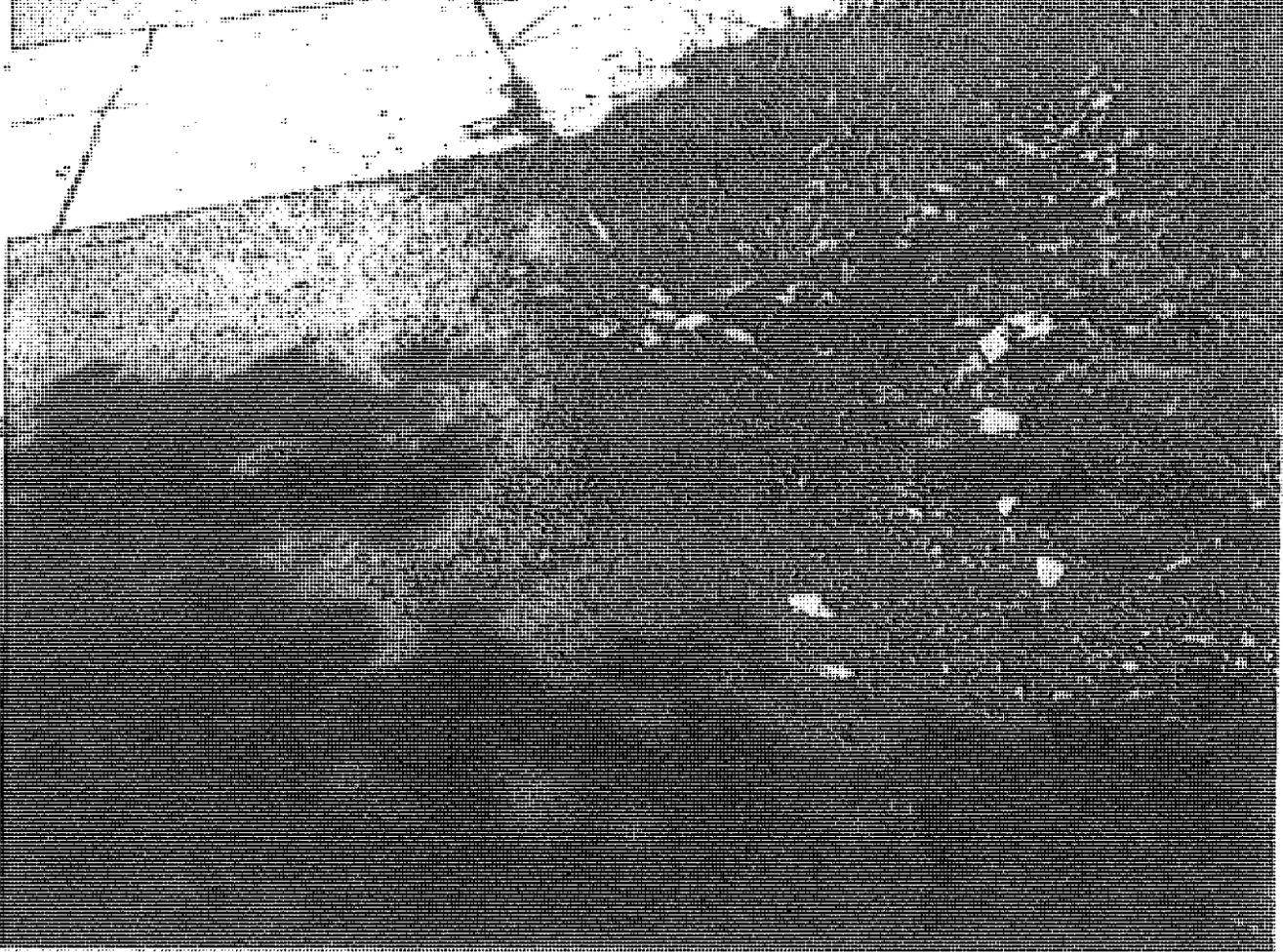
23

Mr
F. H.
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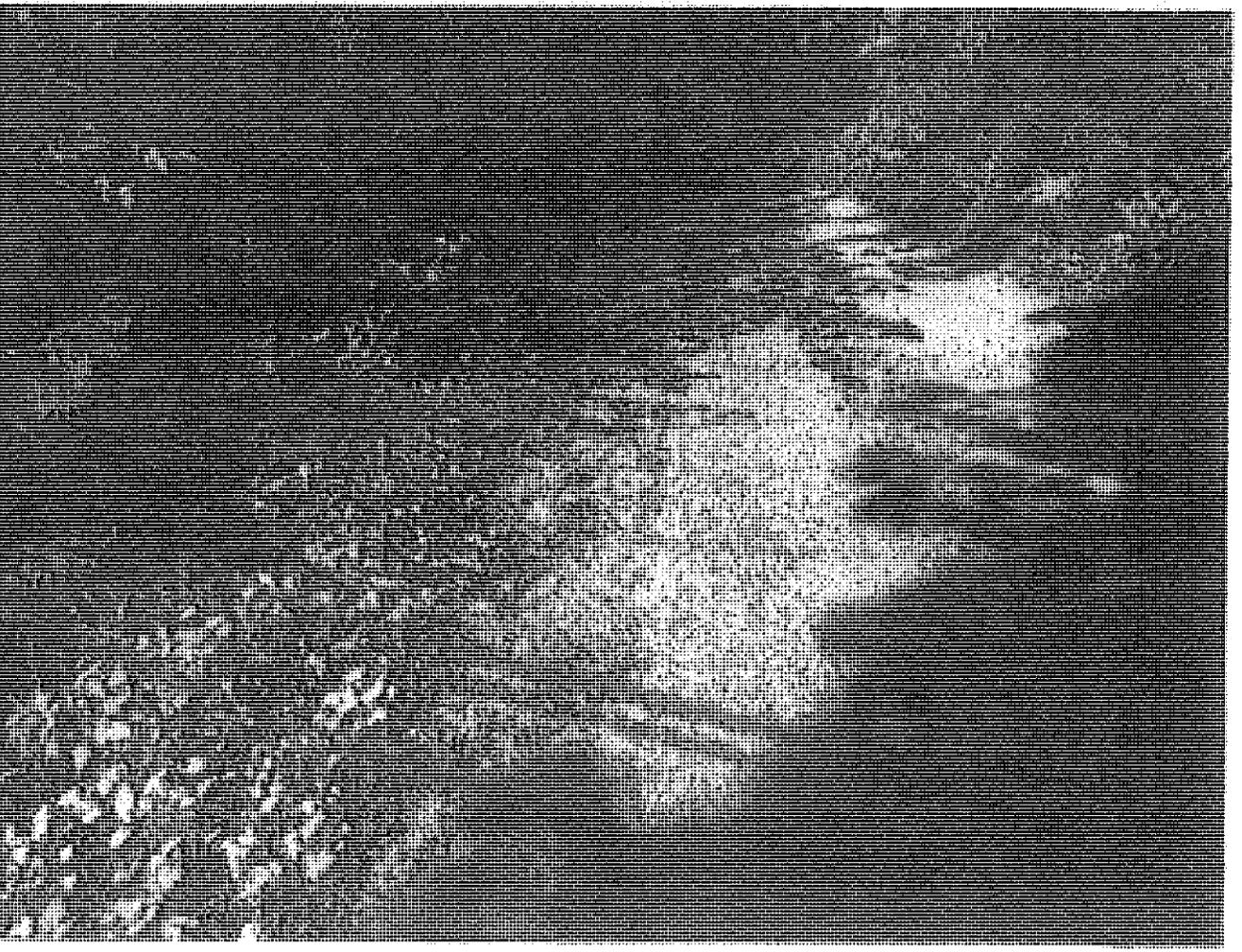
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Victory
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Mokey
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Value History

Tax Account No.	Process No.	Situs Address
222601-2-001-2004	1338557	

Tax Year	Land Value	Improvement Value	Total Value	Taxable Assessed Value	Annual Taxes	Annual FFP Assessment	Annual SSWM Assessment	Annual Noxious Weed Assessment	Annual Total
2012	431,060	38,310	469,370	469,370	TBD	TBD	TBD	TBD	TBD
2011	557,840	39,000	596,840	596,840	6,516.00	0.00	0.00	2.32	6,518.32
2010	570,520	39,520	610,040	610,040	6,230.58	0.00	0.00	1.32	6,231.90
2009	608,550	40,900	649,450	649,450	6,086.96	0.00	0.00	1.32	6,088.28
2008	633,910	41,930	675,840	675,840	6,027.90	0.00	0.00	1.32	6,029.22
2007	415,870	41,930	457,800	457,800	4,245.24	0.00	0.00	1.28	4,246.52
2006	109,110	45,440	154,550	154,550	1,712.30	0.00	0.00	1.30	1,713.60
2005	84,860	41,940	126,800	126,800	1,550.54	0.00	0.00	1.30	1,551.84
2004	80,820	39,960	120,780	120,780	1,581.42	0.00	45.00	0.00	1,626.42
2003	80,810	37,300	118,110	118,110	1,582.00	0.00	45.00	0.00	1,627.00
2002	80,810	36,220	117,030	117,030	1,619.43	0.00	45.00	0.00	1,664.43
2001	73,470	29,750	103,220	103,220	1,385.42	0.00	45.00	0.00	1,430.42

Tax Statement

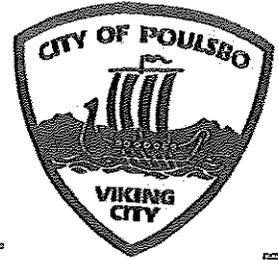
Ms Green is honest! I was bullied by a cabal

close this window

We were forced into the city ^{duly} the city in 2005. Lunda B Maravist said if we didn't go along to pay for a sewer we would lose our land. She said the taxes would be so high we could not pay them? It took a few years but look how our taxes went up about 2007. She must have had influence in the county. Our taxes are more reasonable at this time. I disagreed with assessment

EXHIBIT 5

City of Poulsbo



Barry Berezowsky, Planning Director/Building Official

July 14, 2008

Ms. Mary Rita Hagwell
P.O. Box 1141
Poulsbo, WA 98370

CORRESPONDENCE

Dear Ms. Hagwell:

Thank you for your cards dated July 7, 2008. This letter constitutes the City's response to your concerns.

First, you stated that you are concerned that Marelaine Lane might be annexed into the City of Poulsbo and therefore, deny you of any further rights to access your property.

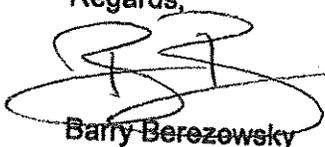
While Marelaine Lane will likely be part of a future annexation petition, your right to access your property from this access drive now, and in the future, regardless of whether the property is annexed into the City, is granted via an access easement. We assume you have such an easement and therefore, you should not be concerned about being prevented from travelling on this "road".

Second, you stated a concern that your address had been changed from Viking Way to Viking Avenue. This change caused you concern because of the potential need to change legal documents etc. As we discussed, I believe this matter has been resolved and your address will remain Viking Way.

Third, you clarified that your property was annexed into the City in 2005, and not in 2000, as you believe Mr. Rudolph publicly stated. We note this correction.

Thank you for writing the City to express your concerns and provide clarification. Please write or call if we can be of any further assistance.

Regards,


Barry Berezowsky
Planning Director

c: Mayor Kathryn H. Quade

19050 Jensen Way NE ♦ Post Office Box 98 ♦ Poulsbo, Washington 98370-0098

(360) 779-3006 ♦ fax (360) 697-8269

www.cityofpoulsbo.com ♦ bberezowsky@cityofpoulsbo.com

Rita Hagwell
PO Box 1141
Poulsbo WA 98370-0076

7016 1970 0000 7247 0739
PLACE STICKER AT TOP OF ENVELOPE TO THE RIGHT OF THE RETURN ADDRESS. FOLD AT DOTTED LINE.
CERTIFIED MAIL
7016 1970 0000 7247 0739

U.S. POSTAGE
PAID
POULSBO, WA
98370
APR 18, 17
AMOUNT
\$4.05
R2305M147637-11



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1000

Gray and Lucinda Harmon
5-02-17
REFUSED
Jay Quana California
92651

NIXIE 911 DC 1 7205/07/17
RETURN TO SENDER
REFUSED
UNABLE TO FORWARD
BC: 9837001111 *2152-04388-07-13
9837001111

Input regarding city of Poulsbo critical Area ordinance update

Public testimony from Molly Lee 5/25/2017
Handed in to City of Poulsbo Planning Dept.
on 5/25/2017.

Additional language should be added to 16.20.320 (G1)

1. "Trails and related facilities shall, to the extent feasible, be placed on existing road grades, utility corridors, or other such previously disturbed areas, outside of Buffers, or on land dedicated by property owners, outside of critical Area buffers; for the purpose of trail."

Molly Lee

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MAY 25 REC'D

PLANNING

From: Alison Osullivan
To: [Karla Boughton](#)
Subject: RE: City of Poulsbo - CAO Update
Date: Thursday, May 25, 2017 7:54:35 PM

Karla,

The Suquamish Tribe initial comments are as follows:

1. General comment: There is no definition of “invasive species”. Throughout the document “invasive species” should be changed to “noxious weeds (Class A and B)” (this covers the invasive species concerns).
2. Page 3 B.This Title applies to all uses and activities with areas or adjacent to areas designated as regulated critical areas **or their buffers** unless.....
3. Page 61 you may want to require stormwater controls for larger, paved trails. They do have impacts and affect water quality.

Alison

Alison O'Sullivan
Biologist, Suquamish Tribe Fisheries Department



18490 Suquamish Way (street)
P.O. Box 498 (mailing)
Suquamish, WA 98392
phone: (360) 394-8447
fax: (360) 598-4666

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From: Karla Boughton [<mailto:kboughton@cityofpoulsbo.com>]
Sent: Wednesday, May 24, 2017 8:35 AM
To: Alison Osullivan <aosullivan@suquamish.nsn.us>
Cc: Michael L (DFW) Blanton <Michael.Blanton@dfw.wa.gov>; Gordon, Brittany N (DFW) <Brittany.Gordon@dfw.wa.gov>
Subject: RE: City of Poulsbo - CAO Update

Good morning all,