

**City of Oak Harbor  
City Council  
Meeting**



**Agenda  
For  
October 19, 2010  
6:00 p.m.**

**Oak Harbor City Council  
REGULAR MEETING  
6:00 p.m.  
Tuesday, October 19, 2010**

**Welcome to the Oak Harbor City Council Meeting**

As a courtesy to Council and the audience, **PLEASE TURN YOUR CELL PHONES OFF** before the meeting begins. During the meeting's Public Comments section, Council will listen to your input regarding subjects of concern or interest that are not on the agenda. For scheduled public hearings, please sign your name to the sign up sheet, located in the Council Chambers if you wish to speak. The Council will take all information under advisement, but generally will not take any action during the meeting. To ensure your comments are recorded properly, state your name and address clearly into the microphone. Please limit your comments to three minutes in order that other citizens have sufficient time to speak. **Thank you for participating in your City Government!**

**CALL TO ORDER**

**INVOCATION**      Bishop Trent Lay, Church of Jesus Christ of Latter-Day Saints  
Oak Harbor Second Ward

**ROLL CALL**

**MINUTES**            9/30/10 Budget Workshop, 10/5/10 Regular Meeting

**NON-ACTION COUNCIL ITEMS:**

1. Employee Recognition – Sean Magorrian/OHPD 30 years.
2. APA Award – City of Oak Harbor Subdivision Code Project.
3. Public Comments.

**COUNCIL CONSIDERATION AND ACTION ON THE FOLLOWING MATTERS:**

4. Consent Agenda:

**Page 40**

- a. Appointments – Island County Joint Administration (Tourism) Board, Zane Platt and Councilmember Jim Campbell.

**Page 48**

- b. Authorization to Advertise for Bids – Refuse Truck Replacements/Acquisition.
- c. Approval of Accounts Payable Vouchers (Pay Bills).

**Page 50**

5. Public Hearing – Municipal Code Amendments: Application Vesting and SEPA Appeals.

**Page 61**

6. Public Hearing and Final Consideration – Ordinance, Property Tax Increase for 2011.

**Page 64**

7. Hearing Examiner Recommendations – Franklin Manor.

**Page 188**

8. Public Hearing – Franklin Manor PRD Overlay Zone.

**Page 191**

9. Emergency Ordinance – Personnel Appeals Board.

10. City Administrator's Comments

11. Council Members' Comments.

- Standing Committee Reports

12. Mayor's Comments.

**ADJOURN**

*"Thought is the sculptor who can create the person you want to be."  
- Henry David Thoreau*

*If you have a disability and are in need of assistance, please contact the City Clerk at (360) 279-4539 at least two days before the meeting.*

**City Council Meeting**  
**Thursday, September 30, 2010, 6:00 p.m.**  
**2011 – 2012 Budget Workshop, Public Works Department**  
**City Hall – Council Chambers**

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**CALL TO ORDER**

Mayor Slowik called the meeting to order at 6:00 p.m.

**ROLL CALL**

Mayor Jim Slowik  
Five Members of the Council,  
Rick Almberg  
Jim Campbell  
Scott Dudley  
Jim Palmer  
Bob Severns

Paul Schmidt, City Administrator  
Doug Merriman, Finance Director  
Cathy Rosen, Public Works Director  
Eric Johnston, City Engineer  
Hank Nydam, Parks Manager  
Steve Bebee, Public Works Operations Manager  
Rich Tyhuis, Public Works Operations Manager  
Sandra Place, Equipment and Purchasing Coordinator  
Rhonda Severns, Utility Services Coordinator  
Renée Recker, Executive Assistant to the Mayor

Mayor Pro Tem Danny Paggao was ill and not able to attend.  
Councilmember Beth Munns was out of town. Both absences were excused.

**Introduction**

Finance Director Doug Merriman gave introductory remarks noting that this workshop is the first in a series of three sessions. These meetings are policy and work plan discussions for the 2011 and 2012 budget in accordance with the Revised Code of Washington. The Mayor will bring the budget to Council and there will be a public hearing followed by adoption of the 2011 – 2012 budget. The budget process is a coordinated effort between elected officials and staff.

**2011 – 2012 Public Works Pre-Budget Discussion**

Public Works Director Cathy Rosen led this evening's workshop through a PowerPoint presentation and binder of budget proposals by individual fund, as presented to the Mayor and each Councilmember. The overview of Ms. Rosen's presentation:

1. Department Mission
2. Department Challenges
3. Basis of Proposed Budget
  - Personnel
  - Operation
  - Proposed Capital Projects
4. Detail by Division
5. Summary

The complete PowerPoint presentation is attached to these minutes as Exhibit A.

Councilmembers were encouraged to ask questions (in bold) throughout the presentation.

**On page 3: What does “growing infrastructure” mean?**

New parks, new streets, Phase 3 of Ft. Nugent Park, trail to Maylor Point; all are examples of a “growing infrastructure.”

**On page 4: How do personnel changes equate in dollars?**

They will be close to revenue-neutral.

**On page 7: When is the SR-20 overlay scheduled?**

The spring and summer of 2011.

**The list is not prioritized? (The Proposed Capital Projects list).**

That is correct.

Page 8 began the details of each fund:

- Fund 001.70 Parks
- Fund 125 Neighborhood Parks – Impact Fee
- Fund 126 Community Parks – Impact Fee
- Fund 101 Streets
- Fund 104 Arterial Streets
- Fund 401 Water
- Fund 402 Waste Water
- Fund 403 Solid Waste
- Fund 404 Storm Drain
- Fund 501 Equipment Rental Operations
- Fund 502 Equipment Replacement
- Fund 505 Technology Reserve Fund
- Fund 510 Shop Facility

Page 9: Correction in the lower blue block should read Capital Projects 2012 (instead of 2011)

Fund 001.70 Parks

**Where is the Uplands Project, Flintstone Park?**

It is not in this budget; it is in the pier project budget.

**What is a splash park?**

A park with water features (fountains) that children can play in.

**What is considered the center of town?**

The neighborhood by the high school.

Fund 125 Neighborhood Parks Impact Fee and  
Fund 126 Community Parks Impact Fee

**Can impact fees be used for the proposed features in Windjammer Park?**

If you can demonstrate that it mitigates growth. The splash park will replace one of the wading pools.

**Land acquisitions require more maintenance and we have Windjammer Park.**  
The City will need to demonstrate the mitigating impact.

Fund 126 is intended to save for the future (per Mayor Slowik)

**Can you buy land with impact fees?**

Yes, if it is for the mitigation of new growth; the fire station as an example. There are two types of revenues: impact fees can be used for land acquisition; REET 2 funds carry the restriction on land acquisition.

Fund 104 Arterial Streets

**Pioneer Way was \$8.3 million and now it is less than that.**

This does not include the funds which have been spent; we are still at \$8.3 million.

Fund 401 Water

**Where is Well 9?**

On Heller Road next to 6<sup>th</sup> Avenue.

**These projects are included in our rate study for the water utility?**

Yes.

Steve Bebee distributed pages for Fund 402 Sewer which were missing from the binder.

**In general, it seems like more is planned for 2011 than for 2012. Are we overloading staff?**

The City Engineer has had input on this list and some projects have been left off because of overload. The proposed staffing level will help accomplish these projects.

Fund 402 Wastewater

**With regard to the last bond payment in 2012, how much was the bond?**

The bond was issued for \$2.4 million. See 402.10.535.080.7200 Sewer Principal.

**Is interest expense a new line item (402.10.592.035.8300 on the same page)?**

No, it has been there for several years.

Fund 403 Solid Waste

**The rate study did not increase the solid waste utility fee but we have a negative number here for net change.**

We do not have the revenue portion. Another big line item will be the ending fund balance.

**How many additions will occur with annexations?**

533 homes and some commercial accounts, but mostly residential units. HDR was aware of this and the roll carts needed, but we will not need to adjust the rates.

**What about Goldie Road?**

That will be at a later date. The franchise agreements with Island Disposal allow for seven years and the recent franchise gave Island Disposal ten years.

**With one truck and one person, how many units can be handled?**

300 to 400 a day for each person; also recycling and yard waste. Routes will be restructured and the additional 533 homes can be handled.

Fund 404 Storm Drain

**What does the compliance officer look for?**

Detention ponds, manholes, leaking oil from vehicles; the City tries for voluntary compliance. This is specific to storm drain. Code compliance is handled through the Building Department.

**Is this revenue-neutral?**

Yes, within a few hundred dollars difference.

Fund 505 Technology Reserve

**Is there any extra money for new equipment since the computers go down every weekend?**

**We need to have the police and fire departments operable on the weekend.**

Some funds have been used for problems. Mr. Schmidt added that the City works through the School District and there is a shared cost; emails clog the system as well.

**Looking at last year's budget, \$19,000 came out of the general fund for the website.**

The website in 2009 and 2010 was not part of Fund 505. Annual software licensing fees would come out of 505 along with IT services costs along with computers and other equipment on the replacement schedule.

Fund 510 Shop Facility

**What is the offset of increase with reference to employee redistribution, retirements, and new positions?**

It is close to cost-neutral.

**When employees retire, how is that earmarked?**

Finance Director Merriman goes through each employee's leave balances, then reviews each fund and pulls monies from the fund balance to cash out a retirement and those monies are set into reserve. That allows cash to cover the expense. We set aside a little each year for each employee to offset retirement.

**What is this called in other divisions?**

In Public Works, transfer out shop ops.

**When purchasing the digital wide format copier, were both purchase and lease options considered?**

Yes. The digital version will replace the "big green machine" which is paper-only. The wide format copies plan-sized documents digitally.

**Summary**

**Is there enough money to do everything?**

No, and this may require contribution of general fund monies. This is our (Public Works) request and there are competing departments and priorities. Public Works is comfortable and confident in the City's utilities and HDR's rate study. Streets and Parks will be a challenge.

Mr. Merriman noted that the rest of the funds will be presented during the next two workshop meetings. All of the funds will be balanced. The general fund will be more challenging (the third meeting). Mr. Merriman will be working with the Mayor and City Administrator toward bringing the final presentation for the 2011 – 2012 budget to the third meeting

**How much less is expected in revenue?**

Down about 3.5 percent from 2010, or half a million less then last year.

**The two FTEs that are currently vacant, how long have they been vacant?**

The water position – for a few months; the streets position – a little over a year. That employee moved over to the storm drain division. That position has been funded.

**Returning to street overlays. Is there a way to see how long they last, or is there sufficient funding to take care of us?**

No, this is a band-aid.

**How do we put a plan together to fund this every year?**

The street fund mostly comes from gas tax and CAPRON monies. We can take care of potholes, lights, traffic signs and that is it. We need more stable long-term funding sources. In the early 90s, a significant amount of money came from the general fund. There will be a high intensity lights timeframe, inventory, and a program by end of this year.

**A workshop is scheduled for November 3<sup>rd</sup> within our regular City Council meeting. Is there enough time in that meeting?**

We will have to limit our regular agenda items and we would like to be done with the budget in November.

**ADJOURN**

With no further discussion coming before the workshop, the meeting adjourned at 7:30 p.m.

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Connie T. Wheeler  
City Clerk

## 2011-2012 Public Works Pre-Budget Discussion

City Council Workshop  
September 30, 2010

### Overview

- Department mission
- Department challenges
- Basis of proposed budget
  - Personnel
  - Operation
  - Proposed Capital projects
- Detail by division
- Summary

## Mission

- The mission of the Public Works Department is to enhance Oak Harbor's quality of life through the construction, operation and maintenance of a safe, effective physical environment; and to provide our visitors, our neighborhoods, and our businesses the efficient, quality services necessary to support the ever-changing infrastructure demands of our growing, diverse community



## Department wide challenges

- Increased Regulatory Requirements
  - NPDES, Federal signage requirements, water conservation and cross connection control, wastewater discharges
- Growing Infrastructure
  - Major capital projects in 2011 and 2012
- Funding for Long-Term Infrastructure Needs
  - Streets and Parks
- Transition planning
  - Planned retirements
  - Staff development and recruiting

## Basis of Proposed Budget

- Revenue picture not complete
- External costs not complete
- Enterprise Utility budgets and capital projects are based on Utility rate study
- Capital projects come from Comprehensive Plans and Capital Facilities Plans
- Three elements- Personnel, Operations, Capital

## Personnel

- Some changes in accounting for personnel costs which show as increases
- Request funding for seasonal and temporary employees rather than permanent positions
- Increase in Engineering staff to reflect capital projects in 2011 and 2012
- Retirements in several key positions

## Personnel

- Restructure of Organization
  - Reduction of middle management
  - 2 new FTE in Engineering- Admin assist, Project Specialist
  - Elimination of 1 FTE in Water (current unfilled)
  - Elimination of 1 FTE in Street (currently unfilled)
  - No net increase in number of employees
  - Cost neutral across the structure



## Operations

- Department wide target to 2010 bottom line
- Current numbers do not reflect
  - Taxes, indirect cost allocations, or ending fund balances
- Insurance costs to reflect actual charges by division

## Operations

- Equipmental rental contributions reflection needs based schedule
  - Water division vactor scheduled for replacement based on program but will **not** be replaced based on need in 2010

## Proposed Capital Projects

- Wastewater Treatment plant preliminary engineering and facility plan
- New 4.0 MG water reservoir
- 18 -inch transmission mains for reservoir
- Revisions to pump station for reservoir
- 42-inch outfall replacement
- Sr-20 overlay
- SE Pioneer Way Street Improvements

## Proposed Capital Projects

- RV Park Upgrade
- Pioneer and Bayshore resurfacing
- Windjammer Park facility improvements
- Lagoon Bridge replacement
- Distribution water main replacement

## Fund 001.70 Parks

- Maintenance and operations of all City Parks
- Special Events
- Capital Improvements
  - Preserve and replace aging facilities
  - Additional facilities to meet adopted LOS

## Fund 001.70 Parks

- Increase in salaries and wages for two additional 6 month seasonal
- Increase for partnership with North Whidbey Parks and Recreation and Island County Health Department for teen services program
- Increase operation expenses due to utility rate increases in city utilities (water, wastewater, storm drainage) and other utilities (power, gas)

## Fund 001.70 Parks

- Capital Projects 2011
  - Repaint Sumner Park Tennis Courts – warranty issue \$12,000
  - Replace Smokehouse BBQ \$25,000
  - Design services for upgrades to RV Park \$180,000
  - Windjammer Park facility improvements (replace roofs on restrooms, restroom fixture replacement, painting, etc.) \$75,000
  - Replace Windjammer Park Lagoon Bridge \$150,000
  - Replace playground equipment at Tyhuis Park \$35,000
  - Install automatic irrigation at Catalina Park at Marina \$12,000

## Fund 001.70 Parks

- Capital Projects 2011
  - Upgrade RV Park including new electrical and water services, add additional full hook-up spaces, and new gravel surface \$1,018,835
  - Structural repairs to Windjammer Park kitchens \$13,000
  - Replace playground equipment at Shadow Glen Park \$37,500
  - Install automatic irrigation system at Lueck Park \$15,000
  - Install automatic irrigation system at Tyhuis Park \$13,000
  - Install Splash Park at Windjammer Park \$250,000

## Fund 125 Neighborhood Parks - Impact Fee

- Limited to new or growth related park projects
  - 2011 Capital
    - Misc. Items for recently developed neighborhood Parks such as trees, tables, benches, signs \$10,000
    - Purchase land for future park development in area of need as identified in 6 yr. Park Plan \$250,000 (or saving for future purchase)
  - 2012 Capital

## Fund 126 Community parks Impact Fee

- Limited to new or growth related park projects
  - 2011 Capital
    - Freund Marsh Trail Extension \$62,000
    - Install 2 covered picnic shelters at Ft. Nugent Park \$67,000
  - 2012 Capital
    - Land acquisition for future community park \$500,000

## Fund 101 Streets

- Street Lighting public utilities increased due to addition of Oak Harbor Street lights (2011) and Heller Road lights (2012)
- Traffic Control Devices operating supplies increasing \$3,500/yr due to new regulatory requirements for high intensity signs
- Salaries and wages decreased due to eliminating one currently unfilled position (1 FTE)
- Requesting a 3 month seasonal employee
- Equipment Replacement Contributions increased by \$35,000 to fully fund replacement contributions
- Ops Transfer Out Supervisor Benefits - One time increase due to retirement

## Fund 101 Streets

- 2011
  - Purchase Salt Brine applicator for snow and ice removal \$20,000
  - Install irrigation system SW Barrington Drive \$25,000
  - ADA improvements to existing sidewalks \$10,000
- 2012
  - ADA improvements to existing sidewalks \$10,000
  - Residential Street Overlays \$400,000

## Fund 104 Arterial Streets

- Capital Outlays only
- Revenues include gas taxes as well as transfers in from grants, REET, and other sources
- 2011 SE Pioneer Way Improvements \$7,650,000
- 2012 Arterial overlay \$500,000

## Fund 401 Water

- Salaries and Wages are reduced due to eliminating one currently unfilled position (1 FTE)
- Items purchased for resale = water from Anacortes includes a \$400,000/yr increase due to upgrades to Water Treatment Plant
- Interfund Replacement Contributions reduced by \$72,000+
- Ops Transfer Out Supervisor Benefits increased due to retirement

## Fund 401 Water

- 2011 Capital projects
  - Completion of Automatic Meter Reading Program \$100,000
  - Well #9 replacement \$150,000
  - Trailer mounted digital signs (2) – funding from all utilities \$40,000
  - Waterline replacement SR20 between SW 6th and SW 8th \$150,000
  - Ault Field Booster Pump Station modifications \$300,000
  - Gun Club Road water main \$2,306,000
  - North Water Reservoir construction \$3,400,000

## Fund 401 Water

- 2012 Capital projects
  - Water main replacements/upgrades \$363,000

## Fund 402 Waste Water

- Office and Operating increased for odor control at new lift stations
- Equipment Replacement contributions decreased by \$34,000+
- 2012 last bond payment

## Fund 402 Waste Water

- 2011 Capital Projects
  - Wastewater Facility Plan \$1,089,570
  - Sewer line rehabilitation on Ely Street \$150,000
  - Replace manhole covers on SR20 and Pioneer Way \$25,000

## Fund 402 Waste Water

- 2012 Capital Projects
  - Lift Station NE 9th/Taftson \$150,000
  - SW Erie St. Sewer Rehabilitation \$150,000
  - Biosolids Removal at Lagoon WWTP \$300,000

## Fund 403 Solid Waste

- Need to purchase solid waste and recycle rollcarts for annexations that will come into our system in 2012
- Purchase new solid waste truck to service annexation areas (addition to fleet \$300k)
- Fill authorized but currently vacant Solid Waste Collector position due to annexations
- No planned Capital projects

## Fund 404 Storm Drain

- Requesting part- time position (1 day/week) for Compliance Officer – previously performed on a seasonal basis
- Increase in Utility costs due to regulations regarding disposal of sweeper debris

## Fund 404 Storm Drain

- 2011 Capital Projects
  - Flow meter at Golf Course \$50,000
  - Annual Main replacements/storm drain covers on SR20 and Pioneer Way \$50,000
  - 42" Outfall \$1,506,000
  - Drainage – Erie St and SR20 \$300,000
- 2012 Capital Project
  - Annual main replacements \$50,000

## Fund 501 Equipment Rental Operations

- Budget based on previous 2 year average + inflation
- Departments billed based on actual costs

## Fund 502 Equipment Replacement

- Each piece of equipment put on a industry standard replacement schedule
- Review annually to determine if equipment is still meeting the needs, should replacement schedule be adjusted?
- Additions to the fleet must be budgeted by department and then added to Equipment Rental after acquisition

## **Fund 505 Technology Reserve Fund**

- Computers and other equipment put on replacement schedule
- Annual replacement contributions from Departments
- Includes cost of IT Services and annual software licensing costs

## **Fund 510 Shop Facility**

- Public Works Shop Operations, Engineering, and Administration
- Costs distributed to all PW Divisions
- Retirement of Operations Manager
- Requesting Administrative Assistant and Project Specialist for Engineering, two new FTE

## Fund 510 Shop Facility

- 2011 Capital
  - Purchase of digital wide format copier and scanner \$10,000

## Summary

- Major Capital project drive the budget
- Operation costs are targeted to match 2010 with increase based on historical trend
- Personnel changes are elimination of 2 FTE, addition of 2 FTE, changes in management structure, and addition of part time seasonals

**City Council Regular Meeting  
Tuesday, October 5, 2010, 6:00 p.m.  
City Hall – Council Chambers**

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**CALL TO ORDER** Mayor Slowik called the meeting to order at 6:00 p.m.

**INVOCATION** Brian Haynes, Family Bible Church

**ROLL CALL**

Mayor Jim Slowik

Six Members of the Council,

Rick Almberg

Jim Campbell

Scott Dudley

Beth Munns

Jim Palmer

Bob Severns

Paul Schmidt, City Administrator

Margery Hite, City Attorney

Doug Merriman, Finance Director

Steve Powers, Development Services Director

Cathy Rosen, Public Works Director

Eric Johnston, City Engineer

Steve Bebee, Public Works Operations Manager

Rick Wallace, Chief of Police

Mark Soptich, Fire Chief

Mack Funk, Harbormaster

Mike McIntyre, Senior Services Director

Renée Recker, Executive Assistant to the Mayor

Danny Paggao, Mayor Pro Tem was ill and excused from this meeting.

**MINUTES**

Councilmember Dudley asked that this statement be added to page 12 (within Mr. Dudley's remarks about North Oak Harbor Street) of the 9/21/10 Council minutes:

***I thought that the City did not communicate with Island Transit or the Transportation Department of our Oak Harbor School District of which both of them were greatly affected.***

Councilmember Almberg:

*I don't know if this is relevant and I don't know that the comment, if there was a comment like that, that it reflects that there was a conversation between the School District, Island Transit, and the Engineering Department, so I don't know why it is relevant in the minutes.*

Mayor Slowik:

*Mr. Dudley did make that point; he would like to see it in. I think it is relevant to put it in and I don't have a problem with that. I think the process would be that we would have an open house; the agencies would study our plan and would come to an open house or make comments during the public process. So I think us going out that way is what you (to Mr. Almberg) are looking at. But, I think what Mr. Dudley is saying is, that was a point he made and I agree he did make that point.*

Councilmember Almberg:

*If he made that point then so be it. Thank you.*

**MOTION:** Councilmember Dudley moved to approve the 9/21/10 regular meeting minutes as amended. The motion was seconded by Councilmember Campbell and carried unanimously.

### **NON-ACTION COUNCIL ITEMS**

#### **Proclamation – Ladies Auxiliary VFW Day**

Diane Small, Department President for the Ladies Auxiliary to Veterans of Foreign Wars, thanked Mayor and Council for this recognition and Mayor Slowik thanked Ms. Small and the Auxiliary for his invitation and chance to meet National President, Cortina Barnes.

#### **Public Comments**

**Corey Johnson, 2080 Boulder Meadow Lane, Oak Harbor.** Mr. Johnson had seen the televised 9/21/10 Council meeting and wanted to share his thoughts as a contractor and Oak Harbor School Board member with regard to North Oak Harbor Street. C. Johnson Construction had bid on this project, did not get the bid, and noting the tight schedule, closely watched the project to see how it would turn out. Issues discussed during the 9/21/10 Council meeting – ADA issues, crosswalks, sidewalks, handicapped ramps – are addressed in the Washington State Department of Transportation’s Blue Book. The City wanted this project done right. As contractors, we all know the rules. I am speaking as an individual on the school board and not the whole board. We are responsible for a \$45 million modernization project at the high school. If I saw problems, and there were some problems, I did not hesitate to call the project manager. If there was a contractual issue, I needed to understand it. I would never talk directly to a contractor. My place is with the other five members on the board to make a collective decision and support it. I was shocked when I heard that the contractor for the North Oak Harbor Street project was in the audience during that last Council meeting. I went back and looked at the last six years I have worked on projects for the City of Oak Harbor. I’ve done \$3.7 million worth of work during those last six years and I appreciate that work. In those six years, the City’s Engineering staff, Public Works staff, Steve Powers, Paul Schmidt, past City Engineer Larry Benfield, have all treated me fairly. As contractors, we all know the rules when we sign up; there can be risk, a big reward, or loss. My experience has been a positive one. I do not do business with those who are not contractor-friendly. With Oak Harbor Street, maybe there could have been some tweaks and improvements, but it is a nice job, done on time, and a good product in the end. It meets the needs of the City and is a good project that will do just fine for you.

**Fred Henninger, 580 SE Ireland, Oak Harbor.** I cannot develop rational arguments on how to plan for failure but the City has. Giving two percent money to the Chamber of Commerce; you are subsidizing the Chamber. The City sponsors activities downtown and then hires a public relations firm to act on behalf of the City. Be conservative when dealing with the community. Some will fail, some will succeed. You cannot change that with my tax money. Businesses built north of the City inexpensively and land was cheaper. Now you have Navy pollution. They will not wish to pay the utility fees or other City taxes or fees. We have extended our water mains out to Ault Field and along Goldie Road. They will pick and choose the services they want.

**Mel Vance, P.O. Box 2882, Oak Harbor.** During the budget workshop, a brine application machine was talked about as a purchase item for roads. City Council found money for consultants and attorneys; try to find money for this machine this year rather than next year since this coming winter may prove to be intense. Mr. Vance also questioned the appropriateness of some of the North Oak Harbor Street discussion during the last Council meeting. There are some issues on Oak Harbor Road but they may not have been handled appropriately at the last Council meeting.

## **COUNCIL CONSIDERATION AND ACTION ON THE FOLLOWING MATTERS**

### **Consent Agenda**

A. Approval of Accounts Payable Vouchers (Pay Bills)

**MOTION:** Councilmember Severns moved to approve consent agenda item A paying accounts payable check numbers 143089 – 143107 in the amount of \$2,268.56, accounts payable check numbers 143108 – 143111 in the amount of \$75,164.33, accounts payable check numbers 143112 – 143293 in the amount of \$306,616.83, payroll check numbers 94123 – 94156 in the amount of \$602,232.10, and payroll check numbers 94157 – 94184 in the amount of \$107,487.06. The motion was seconded by Councilmember Palmer and carried unanimously.

### **Public Hearing and Final Consideration – Ordinance, Utility Rates**

Public Works Director Cathy Rosen presented this agenda bill for final consideration of the ordinance for the water, wastewater and storm drain utilities. Staff will bring forward an ordinance addressing solid waste rates in the near future. Solid waste rates were not included in the proposed rate ordinance since the rate study determined that these rates do not need to be amended for the next three years. Ms. Rosen also noted that this ordinance includes these modifications as directed by Council from their September 21, 2010 meeting:

1. Include the rate tables that show the rates for the next 5-6 years, as shown in HDR's presentation;
2. Include a clause requiring an annual review of the rates; and
3. Specify which rates apply to schools, churches and other non-profits.

Mayor Slowik opened the Public Hearing at 6:25 p.m.

**Fred Henninger, 580 SE Ireland, Oak Harbor.** Sen. Russell Long said, "Don't tax you, don't tax me, tax the fellow behind the tree." Families will be the fellow behind the tree. How many on Council will be voting a discount for their own properties; this is a conflict of interest, admittedly mild. Oak Harbor bills each item for 6.25% and this money goes to the general fund. There is no "will," it is already on your bill. It is called by many charges on your bill. Last year, the bill stated the amount of the tax in dollars and cents and this new billing omits that. The water meters are underground and located in difficult areas. You cannot see them easily – they are like the fellow behind the tree. It is hard to determine their size and the City will determine and charge a large fee that will go to capital improvements. The fee will go to the general fund. The percentage increases were called out with a total of 94.55% using my utility bill as an example.

Water mains were built out to Fakkema Road, Waterloo Road, and Goldie Road. We are supplying the edge of town and not the citizens. It is unclear why commercial units and schools have a declining rate, while single-family residents do not have a graduated rate increase. Waste water multi-family rates show \$3.40 per customer and then it says \$4.00 per account. Each could be paying \$5.00 for their share of the waste water. A laundromat will receive a 10 percent discount on the water. They already receive a discount because they are a commercial business and not a single-family resident. **Mel Vance, P.O. Box 2882, Oak Harbor.** Mr. Vance wanted to clarify a statement he had made during the last City Council meeting concerning his suggested penalty for large homeowners. What Mr. Vance wanted to say was they should be paying the same amount as a small homeowner to be fair (regarding impact on the stormwater system). Likewise, businesses will be paying less which is also not fair and equitable. Everyone should pay equally for their impact on the stormwater system. There is no incentive for conservation.

With no other comments coming forth, Mayor Slowik closed this portion of the meeting at 6:30 p.m.

#### Council Discussion

At Councilmember's Dudley's request, Public Works Director Rosen clarified Dr. Henninger's statements: Each multi-family unit pays 85 percent of the residential charge. If there is a single meter, one account is set up. Councilmember Dudley read a 2009 letter from Dr. Richard Schulte, Superintendent of the Oak Harbor School District, which expressed concern with utility rates; specifically stormwater rates. With the installation of a \$2 million system addressing stormwater, Mr. Dudley advocated that the District receive incentive credits and felt communication had been lacking between the City and District prior to this evening's final consideration of the utility rates ordinance. Mayor Slowik felt this was a legitimate concern. A letter from Mayor Slowik had been hand-delivered to Dr. Schulte this date. Dr. Schulte had been invited to speak to Council this evening and he responded that he was satisfied with what the City is doing. The ERU was increased from 2,500 to 3,300 sf and this will result in a rate decrease for the School District. Mayor Slowik asked Councilmember Dudley to talk with him personally if he has concerns with future issues.

Discussion continued regarding the overall rates increase and the impact on the community, the annual rates review, that the rates study had been before Council in several earlier meetings, and that the City's infrastructure is vital for today and the future; infrastructure projects are expensive. Discussion continued about statements made regarding the School District and communication, and that there is good communication between the Mayor and School District.

Councilmember Palmer asked if he should recuse himself since he owns multi-family units with a single meter. Dr. Henninger felt he should recuse if he receives a rate discount and that recusal should extend to other Council members who own multi-family units. City Attorney Hite noted that everyone in the City has an interest and unless a Council member has benefited differently than other citizens, there would be no need to recuse. Council consensus was not to recuse Councilmember Palmer, so Mr. Palmer remained at the dais. Per Councilmember Campbell's request, Public Works Director

Rosen re-clarified multi-family rates: If you have a ten unit multi-family complex, you will be charged the monthly base rate, and then 85 percent of that since they produce less waste water. If there is a single meter, one account is established and the per-account charge is added to that. Most multi-family units have a single meter.

**MOTION:** Councilmember Munns moved to adopt Ordinance 1587, an ordinance of the City of Oak Harbor establishing rates for water, wastewater, and storm drain services. The motion was seconded by Councilmember Almberg.

**VOTE ON THE**

**MOTION:** Councilmembers Almberg, Campbell, Munns, Palmer and Severns voted in favor of the motion. Councilmember Dudley opposed. The motion carried.

Public Works Director Rosen noted that Public Works staff is available to help people reduce consumption and can go to their property and do a water or solid waste audit. In addition to Council's thanks to staff, Ms. Rosen thanked Sean Koorn, HDR Engineering for his work on the rates study through many meetings.

**Break**

Mayor Slowik called for a break at 6:55 p.m. and the meeting reconvened at 7:00 p.m.

**Dredging Fee Resolution**

Development Services Director Steve Powers presented a resolution for Council consideration which, if approved, would increase permanent and guest moorage rates at the Oak Harbor Marina in order to fund the Redevelopment Project, Phase 2, dredging. The rate resolution presented with this agenda bill followed the direction provided to staff by City Council. Staff obtained information on issuing Marina revenue bonds to pay for the project. The bond fund amount was set at \$2,500,000 (slightly above the estimated project cost) and the bond size (including reserve fund requirement and financing costs) is \$2,745,000; this equates to an average annual payment of \$194,014. The dredging fee necessary to support this payment is \$1.08 per lineal foot per month. Staff recommended setting the dredging fee at \$1.15 per lineal foot per month for permanent moorage customers as was previously discussed with the City Council, the Marina Advisory Board, and the public. This recommendation is made to provide a very slight hedge against fluctuations in the moorage occupancy rate. A prorated dredging fee (\$.04 per night per foot rate) was also recommended for guest moorage customers.

Mayor Slowik called for public comments.

**Byron Scubi, 1279 Penn Cove Road.** During the Marina Committee meeting, we discussed making the dredging assessment a fee rather than rolling it into the rates. Then, the 12 percent for the leasehold would not apply. What happened to that suggestion?

**Mel Vance, P.O. Box 2882, Oak Harbor.** I think it should be a separate line item on the bill as a fee rather than rolling it into the rates. This may not affect tonight's ordinance, but it could be done through the billing process.

There were no other public comments.

Finance Director Doug Merriman addressed Dr. Scubi's remarks regarding the nature of leasehold excise tax. We collect it for the State. State law says this is publicly-owned property; where we do not have real estate property taxes, we have leasehold excise tax. Mr. Merriman had contacted the State and read an FAQ sheet regarding how this tax is applied. The City has to pay the leasehold excise tax. Essentially, it is not what you are charging for, it is the nature of what the lessee is getting – the slip. Our Marina tenant lease agreement does not call out a dredging fee. It doesn't state an amount but refers the reader/tenant to our rate tables. The dredging fee is then considered as a part of the slip's rent. Mr. Merriman also discussed the City's bonding capacity which will be within the City's ceiling for indebtedness and the need to match rates to the debt service payment. Discussion continued about the bill showing a breakout of leasehold excise tax and dredging fee, change order authority, and that the scope of work for this project cannot be changed to add additional dredging quantities if the project is under cost. If the bond's principal is paid down earlier, the timeframe for the bond's retirement is shortened. Mr. Merriman noted that it is actually a series of bonds with callable bonds in the last years which can be paid down and retired earlier. Discussion continued about critical financial assumptions and the \$1.15 as a slight hedge against occupancy rate fluctuations. Change order authority falls to the City Engineer with Reid-Middleton reviewing the contractor's request and then their recommendation to the City Engineer. In the midst of a contract, the City needs the ability to respond to unforeseen circumstances. Discussion followed about financing for longer terms and locking in historically lower rates with a cost savings past down to Marina tenants. Mr. Merriman noted that the bond timeframe should match the lifespan of the asset; the lifespan of the debt. To finance another project while still paying off a longer-term bond would be difficult.

**MOTION:** Councilmember Almberg moved to adopt Resolution No. 10-24. The motion was seconded by Councilmember Palmer.

**VOTE ON THE**

**MOTION:** Councilmembers Almberg, Campbell, Munns, Palmer and Severns voted in favor of the motion. Councilmember Dudley opposed. The motion carried.

### **Introduction – Ordinance, Property Tax Increase for 2011**

Finance Director Doug Merriman presented this introductory agenda bill for the proposed ordinance required to establish the property tax levy rate for the City of Oak Harbor for 2011. Under RCW 84.55.005(1) and RCW 84.55.005(2)(c), the City may increase the collection of property tax revenues by the lower of 1% or the rate of inflation as set by the Implicit Price Deflator (IPD) as published by the Bureau of Economic Analysis (BEA). The IPD measurement to be utilized for 2011 is 1.539. Accordingly, the proposed property tax increase is 1%. Mr. Merriman noted that Council will also have a budget workshop on October 14<sup>th</sup> and introduction of the General Fund.

Mayor Slowik called for public comments but there were none.

### Council Discussion

Discussion followed about the necessity of taking action on this ordinance during the next Council meeting (the ordinance has to be in place by November 15<sup>th</sup>), projected revenues which will be presented at the next budget workshop, and the 1% cap on property tax increase. Mr. Merriman talked about how property tax is collected and the tax levy on assessed valuation for properties within the City of Oak Harbor.

**MOTION:** Councilmember Munns moved to set a public hearing date for October 19, 2010 for presentation and action. The motion was seconded by Councilmember Campbell.

### VOTE ON THE

**MOTION:** Councilmembers Almberg, Campbell, Munns, Palmer and Severns voted in favor of the motion. Councilmember Dudley opposed. The motion carried.

### **2011 – 2012 Legislative Priorities**

City Administrator Paul Schmidt presented this agenda bill seeking approval of the draft legislative priority issues for 2011. The 2011 legislative priority issues list was presented as an exhibit to resolution 10-25 for Council's consideration.

Mayor Slowik called for public comments.

### Public Comments

**Gerry Oliver, 947 NW Prow Street, Oak Harbor.** Mr. Oliver asked what the City is doing for children in Oak Harbor and felt that should be addressed as an addition to the priority list. There are not a lot of programs for children and sometimes government funding can help. Use some of the Whidbey Island Marathon's profits for youth programs.

**Mel Vance, P.O. Box 2882, Oak Harbor.** Mr. Vance discussed two items: Number 7 on the list should be reworded to be clearer. Number 8, if they do pass it (Statewide initiatives affecting Liquor Board Funding) will also affect the County and State. The odds of getting State funding will be zero.

There were no other public comments.

### Council Discussion

Discussion followed about the positive aspects of presenting this list to the legislators, combining Oak Harbor's concerns with other agencies, and the use of AWC as a singular voice for all cities in the State. An explanation was requested of number 7: "Support a Legislative effort to repeal those portions of RCW 36.70A.070(6) requiring Island County and its cities such as Oak Harbor to include State highways and ferry route capacity in determining transportation concurrency in local comprehensive plans." Mr. Schmidt talked about the GMA singling out and applying to Island County the potential for a level of service, along with development occurring along SR-20 in the City, which would bring down the service levels for the ferry system – the State could comment on that when the City prepares its comprehensive plan. The City sees that as being singled out with regard to levels of service. Discussion followed about joining priorities with other agencies and the delay that could occur; send our priorities now. The priorities include AWC's comments which were not available until September 27<sup>th</sup>. The City has always incorporated AWC's comments in past lists. Discussion continued about the need to stay proactive, that (in answer to Mr. Oliver's comments) there are eighteen youth programs receiving some funding from the City through the City's support of Big Brothers Big Sisters, the use of the words "spurious" and "and/or" in number 5 concerning public records requests, and if this list could be considered by the whole Council earlier than the evening of its passage. Number 2 and restoration of the Public Works Trust Fund was discussed, and discussion continued about Number 8 and what would replace revenues affected by the loss of Liquor Control Board funding, lost revenue from automobile sales tax, and the benefit that small cities could garner from reapportionment.

**MOTION:** Councilmember Munns moved to approve Resolution 10-25, the motion was seconded by Councilmember Palmer.

Councilmember Dudley asked that, instead of finding out what AWC recommends prior to drafting this list, the Council could see the local recommendations for Oak Harbor versus input from other sources. Councilmember Campbell noted that Oak Harbor's list is more extensive than AWC's three recommendations.

### AMENDMENT TO THE

**MOTION:** Councilmember Campbell moved to remove these three words from number 5: "spurious, and/or." The amending motion was seconded by Councilmember Severns and carried unanimously.

### VOTE ON THE ORIGINAL

**MOTION:** Councilmembers Almberg, Campbell, Munns, Palmer and Severns voted in favor of the motion. Councilmember Dudley opposed. The motion carried.

### **Council Rules Amendment – Standing Committees**

City Administrator Paul Schmidt presented this agenda bill. An ordinance was adopted on June 15, 2010 which formalized the nature and meeting times of standing committees. At the Council discussion, Councilmember Palmer indicated that he would like to establish some procedures for the conduct of standing committee meetings. At the September 21, 2010 Council meeting, Councilmember Campbell indicated that he believed that all the rules relative to Council procedures should be in the Council Rules booklet. The entire Council voted for staff to re-draft two rules in order to incorporate the rules on standing committees from the ordinance into the Council Rules. This agenda bill summarized the rules applicable to standing committees adopted by amendment to Ch. 1.04 OHMC on June 15, 2010 into a new Rule No. 27. The entire ordinance addressing City Council meetings will also be attached to the Council Rules as Appendix "A." It also proposed adoption of standing committee rule (Rule No. 28) as part of the "Administration and Personnel Council Rules" to address Councilmember Palmer's procedural concerns.

Mayor Slowik called for public comments but there were none.

#### Council Discussion

Discussion followed about the Attorney General's response (expected in November), the different times and locations of standing committees, televising standing committees, and public perception that decisions are made in standing committee meetings. Discussion continued that this agenda bill's subject matter needs to move forward, that standing committees are good for discussion and no action is taken in standing committees, staffing and filming costs to televise these committee meetings, and the meetings' current times and locations. Discussion followed about possible redundancy with number 4 in Rule 28 since Council members sitting in the audience become part of the public attending these meetings and number 4 speaks to special treatment compared to other citizens.

**MOTION:** Councilmember Campbell made a motion to remove number 4 from Rule 28. The motion was seconded by Councilmember Palmer and carried unanimously.

**MOTION:** Councilmember Campbell moved to adopt adding Rule 27 to the Council Rules. Councilmember Severns seconded the motion.

#### VOTE ON THE SECOND

**MOTION:** Councilmembers AlMBERG, Campbell, Munns, Palmer and Severns voted in favor of the motion. Councilmember Dudley opposed. The motion carried.

The second motion amends Resolution No. 04-02, "Administration and Personnel Council Rules" to add a new Rule No. 27 – Standing Committees.

**MOTION:** Councilmember Campbell moved to add Rule 28 as amended. The motion was seconded by Councilmember Palmer.

### **VOTE ON THE THIRD**

**MOTION:** Councilmembers Almberg, Campbell, Munns, Palmer and Severns voted in favor of the motion. Councilmember Dudley opposed. The motion carried.

The third motion amends Resolution No. 04-02, "Administration and Personnel Council Rules" to add a new Rule No. 28 as amended – Standing Committee Procedures.

### **City Administrator Comments**

City Administrator Schmidt talked about upcoming meetings, the 10/20/10 AWC Roundtable in Bellingham, and the 10/28/10 Blaine wastewater treatment plant tour. As included in this evening's agenda under City Administrator comments, City Engineer Eric Johnston and Operations Manager Steve Bebee gave a PowerPoint presentation regarding the RBC Plaintiff Outfall Repair.

### **Council Members Comments**

Since standing committees had not met since the last Council meeting, there were no reports. Councilmember Palmer summarized an economic conference he had attended in Denver, Councilmember Munns talked about AWC's priority list which was officially finished on October 1<sup>st</sup> and purposefully kept to three or four points. AWC looks for common denominators among cities and Oak Harbor's list will be helpful. Councilmember Dudley asked if the RBC Outfall Repair report could have been added as a formal agenda item this evening. Mr. Schmidt noted that it was an information-only item without action and was noted on the agenda. Mr. Dudley felt that a formal agenda bill could have allowed the public to comment. Councilmember Dudley, noting that two new people have been added to the Planning Commission, asked if the City could also recognize those members who are stepping down from committees and commissions for a job well-done.

### **Mayor's Comments**

Mayor Slowik talked about the photographs on display which had been taken by students whose photos portrayed life on Whidbey Island. Congressman Rick Larsen had held a small roundtable in Council Chamber consisting of ten Oak Harbor businesses. Mayor Slowik thanked Congressman Larsen and Adam LeMieux from Congressman Larsen's office.

### **ADJOURN**

With no other business coming before the Council, Mayor Slowik adjourned the meeting at 8:50 p.m.

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Connie T. Wheeler  
City Clerk

City of Oak Harbor  
City Council Agenda Bill

Bill No. 1  
Date: October 19, 2010  
Subject: Employee Recognition – Sgt.  
Sean Magorrian

FROM: Jim Slowik, Mayor 

**INITIALED AS APPROVED FOR SUBMITTAL TO THE COUNCIL BY:**

 Paul Schmidt, City Administrator  
 Doug Merriman, Finance Director  
 Margery Hite, City Attorney, as to form

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**PURPOSE**

To recognize City employees for 10 years of service or more.

**AUTHORITY**

It is the practice of the City to recognize dedicated employees who have completed 10 years or more of service.

**SUMMARY STATEMENT**

The Mayor and City Council will recognize the following employee for his 30 years of service with the City:

- Patrol Sergeant Sean Magorrian of the Oak Harbor Police Department

**STANDING COMMITTEE REPORT**

None

**RECOMMENDED ACTION**

Congratulate Sgt. Magorrian for his 30 years of service.

**ATTACHMENTS**

None

**MAYOR'S COMMENTS**

None

**Award Presentation  
(No Agenda Bill Needed)**

**APA Award – City of Oak Harbor  
Subdivision Code Project**

**City of Oak Harbor  
City Council Agenda Bill**

Bill No. 3

Date: OCTOBER 19, 2010

Subject: **PUBLIC COMMENTS**

**FROM: Jim Slowik, Mayor**

**INITIALED AS APPROVED FOR SUBMITTAL TO THE COUNCIL BY:**

 Jim Slowik, Mayor  
 Paul Schmidt, City Administrator  
 Doug Merriman, Finance Director  
 Margery Hite, City Attorney

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**SUMMARY STATEMENT**

City Council will accept public comments for items not otherwise on the agenda for the first 15 minutes of the Council meeting. You may also speak to any of the consent agenda items.

**City of Oak Harbor  
City Council Agenda Bill**

Bill No. C/A 4A  
Date: October 19, 2010  
Subject: Appointments – Island County  
Joint Administration (Tourism)  
Board

FROM: Jim Slowik, Mayor 

**INITIALED AS APPROVED FOR SUBMITTAL TO THE COUNCIL BY:**

 Paul Schmidt, City Administrator  
 Doug Merriman, Finance Director  
 Margery Hite, City Attorney, as to form

**PURPOSE**

The Island County Joint Administration (Tourism) Board was created by an Agreement signed September 5, 2000 by Island County, the City of Oak Harbor, the City of Langley and the Town of Coupeville. The Board is composed of seven representatives from the lodging industry, seven representatives from tourism organizations and four elected officials of the parties.

The City of Oak Harbor is tasked with appointing a representative from the lodging industry and an elected official.

**AUTHORITY**

Agreement provisions set appointment by the respective legislative authorities as described in **Section III. Joint Administration Board.**

**SUMMARY STATEMENT**

Mayor Slowik recommends Ms. Zane Platt to fill the “lodging industry” vacancy. Ms. Platt has completed a “Biography Form”, a copy of which is attached.

Mayor Slowik recommends Councilmember Jim Campbell as the elected official appointment

**RECOMMENDED ACTION**

Approve the recommendation to appoint Zane Platt to the Island County Joint Administration (Tourism) Board.

Approve the recommendation to appoint Councilmember Jim Campbell to the Island County Joint Administration (Tourism) Board.

**ATTACHMENTS**

Island County, Oak Harbor, Langley and Coupeville Tourism Promotion Agreement  
Ms. Platt's Biography Form.

**MAYOR'S COMMENTS**

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**ISLAND COUNTY, OAK HARBOR, LANGLEY AND COUPEVILLE TOURISM  
PROMOTION AGREEMENT**

THIS AGREEMENT is made and entered into this 5 day of September, 2000, by and between Island County, a political subdivision of the State of Washington, hereinafter called the "County", the City of Oak Harbor, a municipal corporation of the State of Washington, hereinafter called "Oak Harbor", the City of Langley, a municipal corporation of the State of Washington, hereinafter called "Langley", and the Town of Coupeville, a municipal corporation of the State of Washington, hereinafter called "Coupeville",

**I. RECITALS**

- A. Pursuant to Chapter 39.34 RCW, the Interlocal Cooperation Act, the parties hereto desire to enter into an agreement with one another for joint and cooperative action to promote tourism in the County, Oak Harbor, Langley and Coupeville.
- B. Pursuant to Chapter 35, Section 1, 1998 Laws of the State, the County, Oak Harbor, Langley and Coupeville are authorized to add an additional two-percent (2%) excise tax on lodging, over the basic two-percent (2%) lodging tax, to be used solely for tourism promotion, acquisition of tourism-related facilities, or operation of tourism-related facilities.
- C. A professional report prepared by Roger Brooks of Chandler & Brooks, Inc., August 3, 1998, recommended that the newly authorized two-percent (2%) lodging tax be implemented and that the funds generated be used to market overnight visitor tourism. The report indicated that these additional tax funds should be considered <sup>part of the</sup> ~~economic~~ tourism development funds, investment money that should provide a return on investment by increasing overall tourism expenditures and increasing overnight stays in the properties that must collect the tax.
- D. The County, Oak Harbor, and Coupeville all have authority to add the additional two-percent (2%) excise tax on lodging to generate funds to promote tourism. Langley has already adopted an additional one-percent (1%) excise tax and has authority to add an additional one-percent (1%) excise tax on lodging to promote tourism.

**II. GENERAL PROVISIONS**

- A. Adoption of Additional Lodging Tax: By December 31, 1999, the County, Oak Harbor, Langley and Coupeville will hold public hearings to consider adoption of the newly authorized two-percent (2%) lodging tax authorized by 1998 Laws, Chapter 35, Section 1 (RCW 67.28.181). The remainder of the terms of this Agreement shall only be effective if all of the parties adopt

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ordinances providing for the additional lodging tax at levels of one (1%) or two percent (2%) as each authority determines.

- B. Pooled Fund: Except for Langley, after adoption of the new two-percent (2%) lodging tax the revenues collected for all the parties, plus accrued interest from such tax revenues, shall be pooled in a fund held by the Island County Treasurer to be known as the "County-Cities/Town Tourism Fund." Because Langley has already committed a one-percent (1%) additional lodging tax for new public tourist restroom facilities, Langley will only contribute one-percent (1%) of the new lodging tax to the pooled fund.
- C. Sole Use of Pooled Fund: All funds including any interest earned thereon shall be held in the "County-Cities/Town Tourism Fund," and shall be used solely to market the County, Oak Harbor, Coupeville and Langley as a tourist destination to bring visitors for overnight stays. These additional tax funds should be considered economic tourism development funds, investment money that should provide a return on investment by increasing overall tourism expenditures and increasing overnight stays in the properties that must collect the tax.
- D. Basic Two-Percent Lodging Tax Not Covered: This Agreement does not cover the use of the basic two-percent (2%) lodging tax authorized by RCW 67.28.180 or the one-percent (1%) of the new lodging tax retained by Langley. The parties will continue to use those funds outside of the terms of this Agreement and any committee, board or other entity whose primary purpose is to promote economic development shall not be involved in any manner with the new fund referenced herein.

### III. JOINT ADMINISTRATION BOARD

- A. Joint Board: A new Joint Administration Board is created to administer the terms of this Agreement. The composition of this Board is as follows:
1. Seven (7) representatives from the lodging industry appointed by the respective legislative authorities as follows: three from the Whidbey Island unincorporated area of the County with one (1) selected from the North Whidbey Island, one (1) selected from Central Whidbey Island, and one (1) selected from South Whidbey Island; one (1) from the Camano Island unincorporated area of the County; one (1) from Oak Harbor; one (1) from Coupeville and one (1) from Langley;
  2. Seven (7) representatives from tourism organizations, including chambers of commerce, appointed by the respective legislative authorities as follows: one (1) recommended by the Greater Oak

Harbor Chamber of Commerce and approved by the City of Oak Harbor, one (1) recommended by the Central Whidbey Chamber of Commerce and approved by the Town of Coupeville, one (1) recommended by the Langley Chamber of Commerce and approved by the City of Langley, one (1) recommended by the Freeland Chamber of Commerce and approved by the County of Island, one (1) recommended by the Clinton Chamber of Commerce and approved by the County of Island, and one (1) recommended by the Camano Island Chamber of Commerce and approved by the County of Island; and one (1) recommended and approved by the Board of Island County Commissioners, and

3. Four (4) elected officials of the parties, one appointed by each legislative authority.

B. Board Operation: The Joint Board shall comply with the Open Public Meetings Act, Chapter 42.30 RCW and all the other laws and regulations applicable to operation of the parties. The Board shall adopt Bylaws consistent with the terms of this Agreement and shall make decisions by majority vote of a quorum. A quorum shall consist of a majority of the Joint Board. One of the elected officials shall be selected by the Joint Board as the Chair of the Joint Board.

C. Criteria: The Joint Board, in considering expenditures from the "County-Cities/Town Tourism Fund," shall analyze the extent to which the proposed expenditure will increase tourism and the extent to which the proposal will affect the long-term stability of the fund.

#### IV. CONTRACTING OUT

To fulfill the purpose of this Agreement to promote overnight tourist visitors to the County, Oak Harbor, Coupeville and Langley, the Joint Board shall contract out, after seeking and obtaining proposals, professional tourism promotion services. The method of soliciting and contracting for services by the Joint Board must meet the procedural requirements applicable to each party. However, the organization that ultimately provides the professional services shall not have a conflict of interest, whether real or in appearance only, with any party to this Agreement. If adherence to this rule only results in applicants whose business residence is "off-island" that is acceptable. The intent of this section is that the organization contracted with shall not give any party and/or geographical area of the island an advantage or perceived advantage, over any other area and/or party.

## V. MISCELLANEOUS PROVISIONS

- A. Real and Personal Property: No real or personal property shall be acquired by the parties to fulfill this Agreement, except for the contracted-out services specified above.
- B. Budget and Finance: The Joint Board shall only budget and authorize expenditure of funds in the "County-Cities/Town Tourism Fund." Expenditures from the fund shall be vouchered by the Joint Board for approval by the County legislative authority.
- C. Duration of Agreement: Section II(A). becomes effective upon signature by the authorized representatives of all parties. If the new two-percent (2%) lodging tax is adopted by all the parties, except Langley, and Langley adopts an additional one-percent (1%) of the new lodging tax, the remainder of this Agreement will be in effect in perpetuity unless earlier terminated pursuant to Section V(D) below.
- D. Early Termination: This Agreement may be terminated early by one or more parties giving written notice to the legislative authorities of the other parties at least one (1) year in advance of the effective early termination date.
- E. Amendments: The provisions of this Agreement may be amended by written agreement of all the parties.

**ISLAND COUNTY**

By: Wm Dowell Date: 9-11-00  
Chairman  
Board of County Commissioners

Attest:

Nargaret Rosenkrantz  
Clerk of the Board  
BICC 00-579

**CITY OF OAK HARBOR**

By: Patricia Lohr Date: 9-15-00  
Mayor

Attest:

Rosemary Harrison  
City Clerk

**CITY OF LANGLEY**

By: [Signature] Date: 2/2/2000  
Mayor

Attest:

Debbie L. Gahler  
City Clerk

**TOWN OF COUPEVILLE**

By: Dancy Conant Date: 3/15/00  
Mayor

Attest:

Annabell Adams  
Town Clerk

## **Biography Form**

Recommended Board Appointment for: Tourism Board

Name: Zane Platt Date: 09/27/10

Address: 33175 State Route 20

City, State, Zip: Oak Harbor, Wa 98277

Telephone Number: 679-4567 Email Address: salesbwhp@comcast.net

Mailing Address (if different from above): \_\_\_\_\_

Resident of Oak Harbor/Whidbey Island for: 6 years

Occupation and Place of Employment (if retired, reference previous occupation):

General Manager of Best Western Harbor Plaza and Director of Sales for Candlewood Suites

Local Group or Civic Affiliations: Navy League

Special Interests: Training Staff in Customer service, promoting all our Island has to offer to visitors and attending local events. Outside of work I still enjoy all of our Island festivals and camping in our beautiful parks. We camp at City Beach for the Fourth of July and feel like tourists on a fantastic vacation.

Other General Comments: I have worked in the hospitality industry for many years and have been employed by two of the owners of these two hotels prior to coming to Whidbey Island when I helped open up their Holiday Inn Express in Burlington. I have managed hotels in remote areas like Port Angeles so I understand the need to create events to attract visitors.

**City of Oak Harbor  
City Council Agenda Bill**

Bill No. CJA 4B  
Date: October 19, 2010  
Subject: Authorization to Bid for  
Automated Refuse Trucks

**FROM: Cathy Rosen, Public Works Director** *CR*

**INITIALED AS APPROVED FOR SUBMITTAL TO THE COUNCIL BY:**

*[Signature]* Jim Slowik, Mayor  
*[Signature]* Paul Schmidt, City Administrator  
*[Signature]* Doug Merriman, Finance Director  
*[Signature]* Margery Hite, City Attorney, as to form

**PURPOSE**

This agenda bill seeks authorization to advertise to bid for automated refuse trucks.

**AUTHORITY**

OHMC 2.320.040 Competitive bidding - materials, supplies and equipment requires that the City staff solicit competitive bids for any purchase of material, supplies and equipment where the cost thereof exceeds \$30,000, except under certain specific circumstances.

**SUMMARY STATEMENT**

Proposed in the 2011-2012 biennial budget is the replacement of two 2004 automated refuse trucks. In addition, a request to purchase one additional automated refuse truck has been included in the proposed Solid Waste budget for 2011.

The City currently utilizes two automated refuse trucks for residential garbage pick up. They are used Monday through Friday, five days per week. These trucks were purchased in 2004 and have a seven year life cycle. Funds have been set aside in the Equipment Rental replacement fund to replace these two units.

In 2012, the City will be annexing approximately 530 residential accounts. We will need to add one additional truck to the fleet in order to accommodate this annexation.

Pending Council authorization, City staff is ready to pursue competitive bidding for these acquisitions.

**STANDING COMMITTEE REPORT**

The Public Works Standing Committee reviewed this issue at their meeting on October 7, 2010.

**RECOMMENDED ACTION**

A motion authorizing staff to proceed with advertisement to bid for automated refuse trucks.

**ATTACHMENTS**

None

**MAYOR'S COMMENTS**

**City of Oak Harbor  
City Council Agenda Bill**

Bill No. 5  
Date: October 19, 2010  
Subject: Municipal Code Amendments:  
Application Vesting and SEPA Appeals

**FROM:** Steve Powers *rsp*  
Development Services Director

**INITIALED AS APPROVED FOR SUBMITTAL TO THE COUNCIL BY:**

*[Signature]* Jim Slowik, Mayor  
*[Signature]* Paul Schmidt, City Administrator  
*[Signature]* Doug Merriman, Finance Director  
*[Signature]* Margery Hite, City Attorney, as to form

**PURPOSE**

The agenda bill presents amendments to the Oak Harbor Municipal Code intended to clarify when development applications vest and to clarify the City's SEPA appeal procedures.

**AUTHORITY**

The vested rights doctrine provides that applications for development shall be processed under the laws and regulations in effect at the time the application is complete (e.g. RCW 19.27.095 (building permits) and RCW 58.17.033 (subdivision applications)). However, local ordinances determine when an application is deemed complete.

Administrative appeals of SEPA determinations are addressed in RCW 43.21.060, 43.21C.075 and 43.21C.080 and in WAC 197-11-680.

**SUMMARY STATEMENT**

The City's insurance provider, the Washington Cities Insurance Authority (WCIA) conducts annual audits of their member cities. Each audit focuses on a particular city function. The 2009 audit reviewed the City's land use procedures. Staff is pleased to report that the City's land use review and approval procedures are substantially in line with WCIA's recommendations. Only four minor areas required additional attention by the City. Two of these items are administrative in nature and are nearly complete. Two require minor code amendments: one addressing the vesting rights of development applications and the other addressing administrative appeals of Final Environmental Impact Statements (part of the SEPA process). The City is required to incorporate these recommendations into our procedures by October 31, 2010.

**DISCUSSION**

Staff has reviewed the existing Municipal Code to determine where to best incorporate the required code amendments. The "vested rights" amendment should be included in OHMC Chapter 18.20, Permit Processing, while the SEPA appeal procedures should be incorporated in Chapter 18.20 and Chapter 20.04, State Environmental Policy Act.

Two separate ordinances have been prepared for the City Council's consideration. The one pertaining to vesting amends OHMC Chapter 18.20 by adding a new subsection: 18.20.355, Vesting. This new subsection describes when an application vests in a particular set of development regulations, which applications are not subject to vesting, how partial vesting might apply and defines what is meant by the term 'development regulations.'

The ordinance providing for administrative appeals of Final Environmental Impact Statements proposes amending existing language found in OHMC Chapters 18.20 and 20.04. In this ordinance the existing appeals section of the SEPA code (OHMC 20.04.215) is deleted and replaced by language which clearly states which administrative appeals are permitted and outlines the appeal process. Amendments are also proposed to OHMC Chapter 18.20 to simplify the language (and increase the readability) of the consolidated appeals process. The amendment addresses how permit and environmental decisions are combined in a single public hearing and states which body (hearing examiner or city council) conducts the hearing. Another amendment, deleting reference to SEPA determinations as a review process II, is necessary to help implement the changes noted above. Finally, one housekeeping amendment is proposed (related to when appellants must file their appeal memorandums).

#### **PLANNING COMMISSION RECOMMENDATION**

The Planning Commission conducted a public hearing on the proposed amendments on September 28, 2010. The Commission recommended approval of the draft ordinances.

#### **STANDING COMMITTEE REPORT**

The proposed code amendments were to the Governmental Services Standing Committee on October 12, 2010.

#### **RECOMMENDED ACTION**

1. Conduct public hearing on ordinances
2. Adopt ordinance amending OHMC Chapter 18.20 and providing vesting regulations
3. Adopt ordinance amending OHMC Chapters 18.20 and 20.04, clarifying the SEPA appeal process

#### **ATTACHMENTS**

1. Draft ordinances

#### **MAYOR'S COMMENTS**

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE ADDING A NEW SUBSECTION 18.20.355 "VESTING" TO OAK HARBOR MUNICIPAL CODE CHAPTER 18.20, "PERMIT PROCESSING."

WHEREAS, a clear understanding of the regulations in effect during the processing of a development permit is important to the applicant, the community and the City, and;

WHEREAS, in order to determine the regulations to be applied to a development permit the City Municipal Code should clearly state when an application vests in a particular set of development regulations, and;

WHEREAS, the processing of development permits in the City of Oak Harbor is largely regulated by Oak Harbor Municipal Code Chapter 18.20, Permit Process, and;

WHEREAS, by policy the Oak Harbor Planning Commission reviews and forms a recommendation on all changes to the Municipal Code relating to land use and permit processing; and

WHEREAS, the Planning Commission did conduct a public hearing on September 28, 2010 and forwarded a recommendation to the City Council of approval of a new subsection of the City Code to address "Vesting" and;

WHEREAS, on October 5, 2010, the Oak Harbor City Council did conduct a public hearing and consider amending Oak Harbor Municipal Code Chapter 18.20, Permit Process;

THE CITY COUNCIL OF THE CITY OF OAK HARBOR do ordain as follows:

**Section One.** There is hereby added a new Section 18.20.355 entitled "Vesting" to Title 18 of the Oak Harbor Municipal Code to read as follows:

**18.20.355 Vesting.**

- A. An application for a development permit, to be processed under the city development regulations or the Shoreline Master Program, vests at such time as a complete application is filed with the development services department and all required permit fees are paid. An application is "complete" on the date a complete application is filed, as subsequently determined in the letter of completeness issued pursuant to Section 18.20.350. An application vested under this subsection is not subject to any laws or regulations which become effective after the date of vesting, except as provided below.
- B. If a permit application vested under subsection A of this section is approved, and that permit approval includes one or more future uses or permits on the property that are subject to that permit approval, then:

1. If the permit approval contains a detailed description of the future uses, including a detailed site plan drawn to scale, specifying the location of all buildings and improvements to be constructed in conjunction with the use(s), and such site plan is consistent with all laws and regulations in effect at the time the original application vested, then all permit applications in connection with the future use(s) are vested to the laws and regulations in effect at the time of the vesting of the original permit application, and laws and regulations enacted after that vesting date shall not apply to the future use(s) or any permit applications filed in connection therewith;
  2. If the development approval does not describe in detail all future uses or does not contain a detailed site plan, drawn to scale, specifying the location of all buildings and improvements to be constructed in conjunction with the future use(s), then the future use(s) shall be subject to all later enacted laws and regulations in effect at the time of the vesting of any required application for permits in connection with the future use(s). Subject to the provisions of this section, it is the intention of this subsection that, consistent with other federal, state, and county regulatory requirements, an applicant be able to vest his future development rights to the level of detail the applicant chooses to show in the application documents.
- C. Nothing herein shall be construed to restrict the city from imposing conditions on development permits pursuant to the State Environmental Policy Act, Chapter 43.21C RCW, Chapter 197-11 WAC and Chapter 14.12 SCC, as long as such conditions do not change any of the requirements of the underlying code section pertinent to the particular development permit.
- D. Nothing herein shall be construed to prevent the city from imposing new regulations necessary to protect the public health and safety, including, but not limited to, the requirements of the building, health, and fire codes, as now adopted or as subsequently amended.
- E. Applications for site plan reviews, rezones, and comprehensive plan amendments are not subject to the vesting rules in this section. These rules also do not apply to the application of impact fees or system development charges.

**Section Two: Severability.** If any provision of this Ordinance or its application to any person or circumstance is held invalid, the remainder of the Ordinance or the application of the provision to other persons or circumstances is not affected.

**Section Three. Effective Date.** This Ordinance shall be in full force and effect five days following publication.

PASSED by the City Council this 19<sup>th</sup> day of October, 2010.

( ) APPROVED by its Mayor this \_\_\_\_ day of \_\_\_\_\_, 2010.

( ) Vetoed

THE CITY OF OAK HARBOR

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
Attest:

\_\_\_\_\_  
City Clerk

Approved as to Form:

\_\_\_\_\_  
City Attorney

Published: \_\_\_\_\_

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE AMENDING OAK HARBOR MUNICIPAL CODE CHAPTERS 18.20, PERMIT PROCESSING AND CHAPTER 20.04, STATE ENVIRONMENTAL POLICY ACT TO CLARIFY THE SEPA ADMINISTRATIVE APPEALS PROCEDURE FOR FINAL EIS DETERMINATIONS.

WHEREAS, having clearly articulated review and appeals procedures is an important part of the permit and environmental review process, and

WHEREAS, it is necessary to specify which SEPA decisions are administratively appealable; and

WHEREAS, it is the City of Oak Harbor's intention to provide a procedure for administrative appeals of final environmental impact statement determinations, and;

WHEREAS, by policy the Oak Harbor Planning Commission reviews and forms a recommendation on all amendments to the Municipal Code relating to land use and permit processing; and

WHEREAS, the Planning Commission did conduct a public hearing on September 28, 2010 and forwarded a recommendation to the City Council of approval and;

WHEREAS, the proposed amendment is procedural in nature and is itself not a development regulation and so is exempt from SEPA review and review by the Department of Commerce; and

WHEREAS, on October 5, 2010, the Oak Harbor City Council did conduct a public hearing and considered amending Oak Harbor Municipal Code Chapters 18.20, Permit Process and 20.02, State Environmental Policy Act;

THE CITY COUNCIL OF THE CITY OF OAK HARBOR do ordain as follows:

**Section One.** Oak Harbor Municipal Code Section 20.04.215, Appeal, last amended by Ordinance 1141 § 24 in 1998, is hereby amended to read as follows:

~~20.04.215~~ — Appeal:

~~(1)~~ — The following decisions are subject to administrative appeal:

~~(a)~~ — A final determination of DNS.

~~(b)~~ — When any proposal or action not requiring a decision of the city council is conditioned or denied on the basis of SEPA by a non-elected official.

- ~~(e) When both administrative appeal of the final DNS and the substantive determination by a nonelected official are allowed, the appeals must be consolidated.~~
- ~~(2) Such appeal shall be in accordance with Chapter 1.24 OHMC and shall lie before the city council. Appeal must be perfected by giving notice within 15 days of the effective date of the decision of the responsible official.~~
- ~~(3) The procedural determination by the city's responsible official shall carry substantial weight in any appeal proceeding.~~
- ~~(4) The city shall give official notice under WAC 197-11-680(5) whenever it issues a permit or approval for which a statute or ordinance establishes a time limit for commencing judicial appeal.~~

20.04.215 Appeals.

- (1) Any interested person may appeal a threshold determination, adequacy of a final EIS and the conditions or denials of a requested action made by a non-elected city official pursuant to the procedures set forth in this section. No other SEPA appeal shall be allowed.
- (2) All appeals filed pursuant to this section must be filed in writing with the director within 14 calendar days of the date of the decision appealed from.
- (3) On receipt of a timely written notice of appeal, the director shall advise the hearing examiner of the pendency of the appeal and request that a date for considering the appeal be established. The decision of the hearing examiner shall be final and shall not be appealable to the city council.
- (4) Appeals shall be governed by the procedures specified in OHMC Chapter 18.20 and 18.40.
- (5) All relevant evidence shall be received during the hearing of the appeal. The procedural determination by the city's responsible official shall carry substantial weight in any appeal proceeding.
- (6) For any appeal under this section, the city shall provide for a record that shall consist of the following:
- (a) Findings and conclusions;
  - (b) Testimony under oath; and
  - (c) A taped or written transcript.

- (7) The city shall give official notice whenever it issues a permit or approval for which a statute or ordinance establishes a time limit for commencing judicial appeal.

**Section Two:** Oak Harbor Municipal Code Section 18.20.240, Review process II, last amended by Ordinance 1376 § 13 in 2004, is hereby amended to read as follows:

18.20.240 Review process II.

- (1) Review process II applies to all permit applications that involve administrative decisions wherein significant discretion is involved or there is significant impact to other properties.
- (2) All review process II administrative decisions made by the reviewing authority shall be issued in writing. The reviewing authority may attach to any permit approval such conditions as may be necessary to assure compliance with this title, other applicable city ordinances and regulations, or any other regulations administered by federal or state agencies.
- (3) Review process II applications include the following administrative decisions:
  - (a) Short subdivision approvals of nine lots or less;
  - (b) Short subdivision alteration or vacation approvals;
  - (c) Subdivision or short subdivision variances;
  - (d) Binding site plan and site plan approval where a public hearing is not required prior to decision (see Chapter 19.48 OHMC);
  - (e) Binding site plan variances;
  - (f) Administrative shoreline permits (less than one acre);
  - ~~(g) SEPA determinations;~~
  - ~~(h)~~(g) Wetland permit decision under Chapter 20.20 OHMC by the director of development services;
  - ~~(i)~~(h) Expansion of an existing nonconforming property use;
  - ~~(j)~~(i) Other review processes listed in the Oak Harbor Municipal Code as a review process II;
  - ~~(k)~~(j) Those review processes designated by the director;
  - ~~(l)~~(k) Dedication in lieu of park impact fee;

- | (m)(l) Landscape approval;
- | (n)(m) Land clearing permit;
- | (o)(n) Wireless communication facilities;
- | (p)(o) Sidewalk deferral;
- | (q)(p) Water system development charge;
- | (r)(q) Floodplain development permit;
- | (s)(r) Floodplain variance;
- | (t)(s) Landscape – alternative compliance;
- | (u)(t) Site plan – administrative (see Chapter 19.48 OHMC);
- | (v)(u) Sewer system development charge;
- | (w)(v) Joint use agreement for parking;
- | (x)(w) Accessory dwelling permit;
- | (y)(x) Pump station requirements under sewer code or water code.  
Review process II decisions are appealable to the hearing examiner.

**Section Three:** Oak Harbor Municipal Code Section 18.20.520, Consolidated appeals – Concurrent review process, last amended by Ordinance 1376 § 34 in 2004, is hereby amended to read as follows:

18.20.520 Consolidated appeals – Concurrent review process.

- (1) No more than one consolidated open record hearing shall be provided.
- (2) All appeals of review process I or II project permit decisions, and any appeal of environmental determinations other than an appeal of a determination of significance (DS) under SEPA, shall be considered together in a single consolidated open record appeal hearing before the ~~highest level body designated for public review of a permit applied for under this code~~ hearing examiner.
- (3) Any appeal of a SEPA determination (other than a DS) for a review process IV land use permit decision shall be considered in a single consolidated open record hearing before the ~~highest level body designated for public review of a permit~~

~~applied for under this code~~ city council (the decision maker for review process IV permits as provided for in OHMC 18.20.260). The ~~reviewing authority city council~~ shall hold a single consolidated hearing on the SEPA appeal and the land use permit application. The ~~reviewing authority city council's decision~~ on both the SEPA appeal and the land use application shall be final.

- (4) An appeal of a determination of significance, if filed within 14 calendar days of its issuance in accordance with OHMC 18.20.530 shall be heard by the hearing examiner in a separate open record hearing, prior to the further processing of the land use permit application or issuance of a decision.

**Section Four:** Oak Harbor Municipal Code Section 18.20.550, Reports by city staff and applicant/appellant, last amended by Ordinance 1376 § 37 in 2004, is hereby amended to read as follows:

18.20.550 Reports by city staff and applicant/appellant.

- (1) For any appeal heard pursuant to this title, the following procedure shall apply:
- (a) ~~Within 10 calendar days of filing the appeal and at~~ At least 20 calendar days prior to the date of the scheduled hearing on the appeal, the appellant shall file with the reviewing authority a memorandum setting forth the appellant's arguments and authority. Such arguments and authority shall be restricted to those issues set forth in the appellant's written appeal statement;
  - (b) At least 10 calendar days prior to the date of the scheduled hearing, city staff shall file with the office of the reviewing authority and provide the appellant with a staff report responding to the appellant's memorandum concerning the appeal; and
  - (c) At least five calendar days prior to the date of the scheduled hearing, the appellant shall file with the office of the reviewing authority any reply memorandum which the appellant desires to file. The scope of the reply memorandum shall be restricted to responding to issues raised in the staff report.
- (2) Failure to comply with the requirements of this title may result in the reviewing authority taking such action in regard to the failure as is appropriate including, but not limited to, continuing the hearing, postponing the hearing or limiting testimony at the hearing. (Ord. 1376 § 37, 2004; Ord. 1278 § 35, 2001).

**Section Five: Severability.** If any provision of this Ordinance or its application to any person or circumstance is held invalid, the remainder of the Ordinance or the application of the provision to other persons or circumstances is not affected.

**Section Six. Effective Date.** This Ordinance shall be in full force and effect five days following publication.

PASSED by the City Council this 19<sup>th</sup> day of October, 2010.

( ) APPROVED by its Mayor this \_\_\_\_\_ day of \_\_\_\_\_, 2010.

( ) Vetoed

THE CITY OF OAK HARBOR

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
Attest:

\_\_\_\_\_  
City Clerk

Approved as to Form:

\_\_\_\_\_  
City Attorney

Published: \_\_\_\_\_

# City of Oak Harbor City Council Agenda Bill

Bill No.

6

Date:

October 19, 2010

Subject:

Property Tax Ordinance to set  
2011 Property Tax Levy

FROM: Doug Merriman, Finance Director 

INITIALED AS APPROVED FOR SUBMITTAL TO THE COUNCIL BY:

 Jim Slowik, Mayor  
 Paul Schmidt, City Administrator  
 Margery Hite, City Attorney, as to form

## SUMMARY STATEMENT

This agenda bill presents the ordinance required to establish the property tax levy rate for the City of Oak Harbor for 2011. Under RCW 84.55.005(1) and RCW 84.55.005(2)(c), the City may increase the collection of property tax revenues by the lower of 1% or the rate of inflation as set by the Implicit Price Deflator (IPD) as published by the Bureau of Economic Analysis (BEA). The IPD measurement to be utilized for 2011 is 1.539. Accordingly, the proposed property tax increase is 1%.

## AUTHORIZATION

RCW 84.55.010 provides that a taxing jurisdiction may levy taxes in an amount no more than the limit factor multiplied by the highest levy of the most recent three years plus additional amounts resulting from new construction and improvements to property, newly constructed wind turbines, and any increase in the value of state-assessed utility property.

RCW 84.55.005(1) defines "inflation" as the percentage change in the implicit price deflator for personal consumption expenditures for the United States as published for the most recent 12-month period by the Bureau of Economic Analysis of the federal Department of Commerce in September of the year before the taxes are payable;

RCW 84.55.005(2)(c), provides the limit factor for the City of Oak Harbor, a taxing jurisdiction with a population of over 10,000, is the lesser of 101 percent or 100 percent plus inflation;

## RECOMMENDED ACTION

- 1) Hold a public hearing.
- 2) Pass the ordinance setting the 2011 property tax levy at 1% over the actual levy certified in 2010.

## ATTACHMENTS:

- ◆ Draft Ordinance

## MAYOR'S COMMENTS

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ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE TO INCREASE BY \$37,459.84 THE AMOUNT TO BE RAISED BY AD VALOREM TAXES FOR THE 2011 PROPERTY TAX LEVY WHICH REPRESENTS A 1% INCREASE OVER THE ACTUAL LEVY ASSESSED IN 2010.

WHEREAS, proper public notice of this ordinance and the related public hearing was given in the Whidbey News Times on October 6, 2010, and

WHEREAS, a public hearing was held October 19, 2010, to consider the City of Oak Harbor's Current Expense budget for the Year 2011; and

WHEREAS, the 1996 Public Safety Bond issue has been fully repaid and no longer requires a special assessment; and

WHEREAS, RCW 84.55.010 provides that a taxing jurisdiction may levy taxes in an amount no more than the limit factor multiplied by the highest levy of the most recent three years plus additional amounts resulting from new construction and improvements to property, newly constructed wind turbines, and any increase in the value of state-assessed utility property;

WHEREAS, under one provision of RCW 84.55.005(2)(c), the limit factor for the City of Oak Harbor, a taxing jurisdiction with a population of over 10,000, is the lesser of 101 percent or 100 percent plus inflation;

WHEREAS, RCW 84.55.005(1) defines "inflation" as the percentage change in the implicit price deflator for personal consumption expenditures for the United States as published for the most recent 12-month period by the Bureau of Economic Analysis of the federal Department of Commerce in September of the year before the taxes are payable;

WHEREAS, inflation as evidenced by the change in the for the twelve month period ending July 2010 as measured by the change in the implicit price deflator (IPD) is 1.539 percent meaning the taxes levied in Oak Harbor in 2010 for collection in 2011 would potentially increase by this percentage, plus additional amounts resulting from under-utilized levy capacity, new construction and improvements to property, new annexations, newly constructed wind turbines, and any increase in the value of state-assessed utility property;

WHEREAS, the City Council, after hearing and after duly considering all relevant evidence and testimony presented, has determined that the City of Oak Harbor requires an increase in property tax revenue from the previous year, in order to discharge the expected expenses and obligations of the City of Oak Harbor.

WHEREAS, the City Council has further determined that in order to discharge the expected expenses and obligations of the Current Expense budget for 2011, the ad valorem taxes for the 2011 tax levy shall be increased by an amount of one percent (1%) equaling 101.00% of the property tax assessment that could have been received during the previous year. This increase is exclusive of any additional revenues received from under-utilized levy capacity, from the addition of new construction, improvements to property, any annexations that have occurred, newly constructed wind turbines, and from any increase in the value of state-assessed property.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF OAK HARBOR do hereby ordain as follows:

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**Section One:** An increase in the regular property tax levy is hereby authorized for the levy to be collected in 2011 tax year. The dollar amount of the increase over the actual levy amount of the previous year shall be \$37,459.84, which is an increase of one percent (1%). This increase is exclusive of any additional revenues received from under-utilized levy capacity, from the addition of new construction, from improvements to property, any annexations that have occurred and refunds made, from newly constructed wind turbines, and from any increase in the value of state-assessed property. The total regular property taxes will be budgeted at \$4,127,522.00 for 2011.

**Section Two:** The City Clerk shall file a certified copy of this ordinance with the Island County Auditor.

**Section Three: Severability.** If any provision of this Ordinance or its application to any person or circumstance is held invalid, the remainder of the Ordinance or the application of the provision to other persons or circumstances is not affected.

**Section Four: Effective Date.** This ordinance shall take effect five days after publication as provided by law.

PASSED by the City Council this \_\_\_\_\_ day of \_\_\_\_\_ 2010.

CITY OF OAK HARBOR

Approved ( ) \_\_\_\_\_  
Vetoed ( ) Jim Slowik, Mayor

\_\_\_\_\_  
Date

Attest:

\_\_\_\_\_  
City Clerk

Approved as to Form:

\_\_\_\_\_  
City Attorney

Published: \_\_\_\_\_

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**City of Oak Harbor  
City Council Agenda Bill**

Bill No. 7  
Date: October 19, 2010  
Subject: Franklin Manor PRD, Site  
Plan, and Administrative  
Variances

FROM: Steve Powers *SP*  
Development Services Director

**INITIALED AS APPROVED FOR SUBMITTAL TO THE COUNCIL BY:**

*JS* Jim Slowik, Mayor  
*PS* Paul Schmidt, City Administrator  
*DM* Doug Merriman, Finance Director  
*MH* Margery Hite, City Attorney, as to form

**PURPOSE**

The agenda bill presents the recommendation of the City of Oak Harbor Hearing Examiner to approve, with conditions, a PRD, site plan review, and two administrative variance applications to construct 158 multi-family apartment units on 5.57 acres. In accordance with OHMC 18.20.260(2)(f), the City Council shall conduct a closed record review of the Hearing Examiner's record and make a final decision on this application. **Please note that this is a quasi-judicial process.**

**AUTHORITY**

The project application is both a Type IV Site Plan Review and a Type IV PRD application. In accordance with OHMC Section 19.48.040(3)(c)(i), applications for Site Plan review of proposals greater than 100 units are considered to be Review Process IV actions. Such actions are subject to an open record public hearing before the Oak Harbor Hearing Examiner, a recommendation by the Examiner to the Council and a final decision by the Council. According to OHMC 18.20.220(3), an application that involves two or more procedures that has the same highest numbered classification but are assigned different hearing bodies shall be heard by the Hearing Examiner and decided by the highest ranking decision maker, in this case, the Council.

The Site Plan application (Type IV, SIT-10-02), the PRD (Type IV PLN-10-04), the Landscape Plan (PLN-10-06), and the Administrative Variances VAR-10-02, VAR-10-03 are presented together for simultaneous review and decision. Per OHMC 18.20.360(1), an application that involves two or more review process I, II, III and IV procedures shall be processed collectively under the highest numbered procedure required for any part of the application unless the applicant requests that the application be processed under the individual procedure option.

**PROJECT INFORMATION**

**Applicant:** Sean Hegstad, Haven Design Workshop, 907 Harris Ave. Ste 301, Bellingham, WA 98225

**Property Owner:** Windmill Court, LLC, 15015 Main Street Ste 203; Bellevue, WA 98007

**Address of proposal:** 1215 SW Swantown Avenue, Oak Harbor, WA 98277

**Parcel Number:** R13203-110-1730

**Comprehensive Plan Designation:** High Density Residential

**Zoning Designation:** R-4, Multi-Family Residential

**Applications Presented for Action:**

Planned Residential Development (PLN-10-04, PLN -10-06)-Review Process IV

Site Plan Review (SIT-10-02) – Review Process IV

Administrative Variances (VAR-10-02, VAR-10-03)

**BACKGROUND**

On April 15, 2010 Mr. Sean Hegstad with Haven Design Workshop submitted an application for Site Plan and PRD approval for a 4 building, 158 unit apartment project on 5.57 acres. The application was determined to be technically complete on April 29, 2010. Staff met with the applicant on May 12th and June 1st to provide comments on the proposal. Three rounds of review by staff ensued including providing formal written comments on the project after the initial submittal and prior to the public hearing by the Hearing Examiner. On September 24, 2010 at 10 a.m. the open public hearing to consider this project was held before the Hearing Examiner.

**PROJECT DESCRIPTION**

The proposed project will construct 158 multi-family apartment units on 5.57 acres. As the project is a PRD, the project incorporates open space (not required in a standard site plan); including a playground, a lawn bowling court, water features, and benches. There are four buildings four stories in height with heightened architectural design and character reminiscent of the Pacific Northwest region. The project is also setting aside four (4) of the units as qualified affordable housing.

Access to the site will be provided through the extension of a public street (SW Mulberry Place) which will connect SW Fort Nugent Avenue to SW Swantown Avenue. One entrance will be provided to each side of the project from SW Mulberry Place. A bus stop for Island Transit will be provided along SW Swantown Avenue to serve the project and adjacent residents. Pedestrian connections are provided throughout the site by sidewalks along the parking lot areas, across SW Mulberry Place on a raised crosswalk, and sidewalks which extend north to SW Swantown Avenue and south to the Summer Wind multi-family development continuing on to SW Ft. Nugent Avenue.

Associated site improvements include 257 parking spaces (257 required) including 22 garages, parking lot and perimeter landscaping, and fencing along portions of the perimeter. The parking Franklin Manor PRD, Site Plan, and Admin. Variances, October 19, 2010

area may use pervious concrete to minimize stormwater impacts and rain gardens and a vault system are proposed for the site to collect and treat the stormwater. Street trees will be planted along the length of SW Mulberry Place and along SW Swantown Avenue. Garry Oak trees will also be incorporated into the site.

### **PROJECT REVIEW**

Staff reviewed the project against the applicable criteria in the Oak Harbor Municipal Code and the Design Regulations and Guidelines and found the project, as conditioned, to be consistent with the criteria. In the staff report to the Hearing Examiner, staff recommended approval of the project subject to conditions.

The Hearing Examiner conducted the public hearing on September 24, 2010. The Hearing Examiner recommended approval of the project with conditions. The Hearing Examiner found the proposal to be consistent (as conditioned) with the applicable criteria as described in his Findings of Fact, Conclusions of Law and Decision.

The City Council shall conduct a closed record review of the Hearing Examiner's record and recommendation and make a final decision on this application. The staff report to the Hearing Examiner as well as the Hearing Examiner Findings of Fact, Conclusions of Law and Decision has been attached for your review as Attachments A and B respectively.

### **STANDING COMMITTEE REPORT**

The item did not go before a standing committee as it is a quasi-judicial decision.

### **RECOMMENDED ACTION**

1. Conduct the closed record review.
2. Adopt the Findings of Fact, Conclusions of Law, and Decision of Council.

### **ATTACHMENTS**

- A. Staff Report to Hearing Examiner (Note: reduced-size drawings included; full size drawings available in the Development Services Department).
- B. Hearing Examiner Findings of Fact, Conclusions of Law and Decision, October 6, 2010.
- C. Findings of Fact, Conclusions of Law, and Decision of Council.

### **MAYOR'S COMMENTS**

**ATTACHMENT A**

**Staff Report to Hearing Examiner**

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**ATTACHMENT A**

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# HEARING EXAMINER AGENDA

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*September 24, 2010*



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**OAK HARBOR HEARING EXAMINER**  
**September 24, 2010**  
**10:00 A.M.**

**Oak Harbor City Council Chambers**  
**865 SE Barrington Drive**  
**Oak Harbor**

**AGENDA**

1. **Call to Order**
  
2. **FRANKLIN MANOR – SIT-10-02, PLN-10-04, PLN-10-06, VAR-10-02, VAR-10-03**  
The Hearing Examiner will consider a planned residential development (PRD), site plan, landscape plan, and two administrative variances for a proposal to construct 158 units for multi-family living on 5.57 acres. The project location is 1215 SW Swantown Avenue, parcel #R13203-110-1730. There will be four four-story buildings containing 33-44 units each. This will be a phased project. The existing buildings, mobile homes, septic tanks and well will either be removed or abandoned. The Hearing Examiner will make a recommendation to the City Council who will make a final decision on this matter.
  
3. **Adjourn**

**FRANKLIN MANOR PROJECT**  
**Case No. SIT-10-02, PLN-10-04, PLN-10-06, VAR-10-02, VAR-10-03**  
**Staff Report to Hearing Examiner**  
**September 24, 2010**

---

**APPLICATION:**

The application is to consider a planned residential development (PRD), site plan, landscape plan, and two administrative variances for a proposal to construct 158 units for multi-family apartment living on 5.57 acres. There will be four four-story buildings containing 33-44 units each. This will be a phased project. The existing buildings, mobile homes, septic tanks and well will either be removed or abandoned.

**PRELIMINARY INFORMATION:**

**Applicant:** Sean Hegstad, Haven Design Workshop, 907 Harris Ave. Ste 301, Bellingham, WA 98225

**Property Owner:** Windmill Court, LLC, 15015 Main Street Ste 203; Bellevue, WA 98007

**Address of proposal:** 1215 SW Swantown Avenue, Oak Harbor, WA 98277

**Parcel Number:** R13203-110-1730

**Comprehensive Plan Designation:** High Density Residential

**Zoning Designation:** R-4, Multi-Family Residential

**Application Presented for Action:**

Planned Residential Development (PLN-10-04, PLN -10-06)-Review Process IV  
Site Plan Review (SIT-10-02) – Review Process IV  
Administrative Variances (VAR-10-02, VAR-10-03)

**Attachments:**

- |           |  |
|-----------|--|
| Exhibit 1 | Site Plan SP1 dated 9/15/10 and Narrative dated 6/30/10  |
| Exhibit 2 | Aerial Photo of Site   |
| Exhibit 3 | Site Plan Application Packet dated 4/15/10   |
| Exhibit 4 | Open Space Plan SP2 dated 9/15/10  |
| Exhibit 5 | Landscaping Plan L-1, L-2, L-3, L-4, L-5, L-6, and L-7 dated 9/15/10                                   |
| Exhibit 6 | Building Elevations A1 & A2 dated 8/24/10 and Simulations dated 6/30/10                                |
| Exhibit 7 | Trash Enclosure & Compactor Details, Sign Detail, Playground Detail, and Lighting Details and Analysis |
| Exhibit 8 | Mitigated Determination of Nonsignificance dated 8/18/10   |

Exhibit 9                      Administrative Variances dated 8/24/10  
Exhibit 10                     Public Comment Letters  
Exhibit 11                     Public Noticing Documents

**BACKGROUND:**

On December 7, 2007, a public hearing for a 152 unit condominium project was held before the Hearing Examiner for this property. The public hearing was left open to resolve questions related to the Transportation Impact Fee. This was a request on the part of the applicant, and staff expressed willingness to continue these discussions and bring the application back to the Hearing Examiner at a later date. The application did not return to the City and after 90 days a new site plan submittal was required for the project [OHMC 18.20.410(c)(i)].

On April 15, 2010 Mr. Sean Hegstad with Haven Design Workshop submitted an application for Site Plan and PRD approval for a 4 building, 158 unit apartment project on 5.57 acres. The application was determined to be technically complete on April 29, 2010. Staff met with the applicant on May 12<sup>th</sup> and June 1<sup>st</sup> to provide comments on the proposal. Three rounds of review by staff ensued including providing formal written comments on the project after the initial submittal and prior to the public hearing by the Hearing Examiner.

***Review Process***

The project application is both a Type IV Site Plan Review and a Type IV PRD application.

In accordance with OHMC Section 19.48.040(3)(c)(i), applications for Site Plan review of proposals greater than 100 units are considered to be Review Process IV actions. Such actions are subject to an open record public hearing before the Oak Harbor Hearing Examiner, a recommendation by the Examiner to the City Council and a final decision by the City Council. After due and proper notice, the public hearing to consider SIT-10-02, PLN-10-04, PLN-10-06, VAR-10-02, VAR-10-03 has been scheduled for 10:00 am, or as soon as possible thereafter, on September 24, 2010.

According to OHMC 18.20.220(3), an application that involves two or more procedures that has the same highest numbered classification but are assigned different hearing bodies shall be heard by the Hearing Examiner and decided by the highest ranking decision maker, in this case, the City Council. The Site Plan application (Type IV, SIT-10-02), the PRD (Type IV PLN-10-04), the Landscape Plan (PLN-10-06), and the Administrative Variances VAR-10-02, VAR-10-03 are presented together for simultaneous review and decision. The Hearing Examiner may forward a recommendation to the City Council on all applications.

**PROJECT DESCRIPTION**

The proposed project will construct 158 multi-family apartment units on 5.57 acres. As the project is a PRD, the project incorporates open space (not required in a standard site plan); including a playground, a lawn bowling court, water features, and benches. There

are four buildings four stories in height with heightened architectural design and character reminiscent of the Pacific Northwest region. The project is also setting aside four (4) of the units as qualified affordable housing.

Access to the site is provided through the extension of a public street (SW Mulberry Place) which connects to SW Fort Nugent Avenue and SW Swantown Avenue. One entrance is provided to each side of the project from SW Mulberry Place. A bus stop for Island Transit will be provided along SW Swantown Avenue to serve the project and adjacent residents. Pedestrian connections are provided throughout the site by sidewalks along the parking lot areas, across SW Mulberry Place on a raised crosswalk, and sidewalks which extend north to SW Swantown Avenue and south to the Summer Wind multi-family development continuing on to SW Ft. Nugent Avenue.

Associated site improvements include 257 parking spaces (257 required) including 22 garages, parking lot and perimeter landscaping, and fencing along portions of the perimeter. The parking area may use pervious concrete to minimize stormwater impacts and rain gardens and a vault system are proposed for the site to collect and treat the stormwater. Street trees will be planted along the length of SW Mulberry Place and along SW Swantown Avenue. Garry Oak trees will also be incorporated into the site.

**SITE GEOGRAPHY**

The project covers a 5.57 acre parcel (Exhibit 2). The project site involves the removal of approximately 42 mobile homes from the Windmill Mobile Home Park, 34 of which as of April 1, 2010, were currently occupied. The site has been partially cleared for the installation of the mobile home park, although there are approximately 215 significant trees located throughout the site (measured by 12-inch or greater diameter at chest height), 49 of which will be retained (32 required) and several new trees will be planted throughout the site.

The property is zoned R-4, High Density Residential. The proposed use is a permitted use in this zoning district. Surrounding uses include apartments to the north, single family housing to the west, multi-family condominium units, single-family homes, and a childcare facility to the south, and retirement housing to the east. The site slopes significantly from east to west from the western edge of SW Swantown Avenue, and there are no known critical areas present. Land uses abutting the site include the following:

	<b>Existing Land Use</b>	<b>Zoning</b>
<b>North:</b>	Apartments	R-4, Multi-Family Residential
<b>South:</b>	Single & Multi-Family Residential, Childcare Facility	R-4, Multi-Family Residential
<b>East:</b>	Retirement Home	R-4, Multi-Family Residential
<b>West:</b>	Single-Family Residential	R-1, Single Family Residential

**SEPA:**

A SEPA checklist (SEP-10-05) was previously reviewed by City staff and a Mitigated Determination of Nonsignificance was issued on August 18, 2010.

**LEGAL NOTICE:**

The application was determined to be complete for processing on April 29, 2010. The City issued a Notice of Application that was advertised in the Whidbey News Times on May 8, 2010 with a 14-day comment period that closed on May 24, 2010. Letters went out to all property owners within a 300-foot radius of the project on May 5, 2010 and notice was posted on the subject property on May 7, 2010.

The Notice of Public Hearing was advertised in the Whidbey News Times on September 8<sup>th</sup> and letters to all property owners within a 300-foot radius of the project were mailed on September 3<sup>rd</sup> and notice was posted on the subject property on September 10, 2010 (Exhibit 11). The public hearing to consider the project is scheduled for September 24, 2010 at 10:00 a.m.

**PUBLIC COMMENTS:**

The City received five comment letters (Exhibit 10) pertaining to the site plan and PRD applications. Two of the comment letters were unsupportive of the project due to concerns (in general) regarding high-rise development of the site and the displacement of existing residents. One comment letter recommended a bus pullout along Swantown Avenue to serve the population of the project and the surrounding area. Another comment letter asked questions regarding the height of the buildings and phasing for the project. The final comment letter had concerns of redeveloping the site as the resident enjoys living in a low impact development.

**SITE PLAN TYPE IV REVIEW**

The sections that follow describe various aspects of the proposal and cite the technical studies used to support the proposed site design and mitigating conditions.

**Transportation Concurrency, Access and Circulation**

Franklin Manor proposes two major vehicular ingress and egress points for the site. The main access to the site will be from the extended SW Mulberry Place. The newly created SW Mulberry Place features traffic calming measures including narrowing of the vehicular way to 24 feet wide with landscaped areas and a raised crosswalk that also functions as a speed hump, requiring drivers to reduce their speeds as they travel through the development.

With respect to transportation concurrency, the applicant submitted an up-to-date technical memorandum accounting for the new number of proposed units (158) in conjunction with original Traffic Impact Analysis completed by Gibson Traffic Consultants (GTC) in January 2007. This memorandum revealed a trip generation of 55 new peak PM hour trips (34 inbound/21 outbound). These documents have been reviewed by City Engineering staff and a Certificate of Concurrency was issued on September 13, 2010.

The 2007 traffic analysis recommended the installation of a four-way stop at the intersection of SW Swantown Avenue and SW Heller Street. In October of 2007 the City completed a restriping project at this intersection (along SW Heller Street) from a through/left lane and dedicated right turn to a dedicated left with a through/right lane per GTC recommendations to mitigate a drop in the Level of Service resulting from the Fort Nugent Park Phase II project. As such, the 'existing' conditions listed in the Franklin Manor Traffic Analysis have since changed, and the Engineering staff has determined that the improvements recently completed at this location may also mitigate additional traffic produced from this project.

In the updated technical memorandum, GTC noted that recent daily traffic counts combined with historic counts show negative or zero traffic growth in the study area. The LOS analysis performed in the 2007 traffic study is based on the higher 2005 PM peak hour traffic counts and represents the worst case scenario. Based on this information, GTC concluded that an updated Level of Service analysis for the proposed site plan would not be necessary as there is not an additional impact of the 10 PM peak-hour trips. However, the applicant will be required to pay a transportation impact fee of \$907 per residential unit (minus the 42 existing mobile homes) to mitigate the impact of the trips to/from the 158 units.

#### **Building and Site Design**

Building and site design for the proposed Franklin Manor project must meet the standards provided in the City of Oak Harbor's Design Guidelines & Regulations approved by the City Council on April 18, 2006. This document is intended to augment the regulations built into the zoning code toward a goal of encouraging excellence in design for new construction and major remodels. The guidelines encompass site planning, pedestrian access, vehicular access and parking, building design, landscape integration and overall aesthetics of the site. As a PRD, the standards provided in the Planned Residential Development section of the City's municipal code also apply (OHMC 19.31).

As presented for review and action by the Hearing Examiner, the proposed Franklin Manor design is consistent with these guidelines and the PRD section of the code as reviewed in more detail below in this report. Each of the four buildings within the Franklin Manor development will be similar in overall design, with slight variations in size between Buildings A & B and Buildings C & D due to the number of units proposed. Solid exteriors will be broken by various windows addressing units on all floors, railings and walkways, variations in building materials such as hardiplank siding and shingles, cedar rail and posts, and white trim accents around doors and windows. Horizontal planes are distinguished by vertical elements. The building elevations meet the Design Guidelines & Regulations in addition to the heightened architectural design required by the PRD.

Landscaping along the perimeters and within the parking lot areas will help soften the appearance of the parking areas, and concentrations of trees and shrubs along SW Swantown Avenue buffer the parking area closer to the street (Exhibit 5).

Access for both vehicles and pedestrians has been well considered, and there are direct and distinct connections both within the site and connecting to surrounding properties and streets. Pedestrians may walk through the site on sidewalks or across the site on a marked walkway. An ADA accessible ramp and stairs will lead from the site to the Island Transit bus stop along Swantown Avenue. A raised crosswalk has been provided on SW Mulberry Place. Improvements along SW Swantown Avenue will include the planting of street trees and shrubs, a three foot high fence, and the replacement of any cracked or damaged sidewalk causing hazardous pedestrian use. Improvements to SW Mulberry Place frontage will also provide improved pedestrian facilities and a complete street section.

#### **Utilities and Stormwater**

Per the Oak Harbor Municipal Code, the proposed Franklin Manor PRD will be connected to public utilities and meet the requirements for treatment and detention of stormwater. The Engineering Department is in the process of working with the applicant to approve the preliminary stormwater report. More detailed utility plans will be provided during the Civil Plan review process.

#### **Phasing**

The applicant intends to build the eastern half of the site including Buildings C and D first while keeping the mobile homes intact on the western half. The public street will be built at the same time as that of the first phase. The second phase includes construction of Buildings A and B.

#### **Site Plan Review Criteria**

The Hearing Examiner will consider whether the proposed site plan application submitted by Haven Design Workshop for Franklin Manor is consistent with Chapter 19.48 of the Oak Harbor Municipal Code. Approval criteria are listed below to provide a frame of reference for the applicant in developing a site and for the decision-maker in reviewing an application, but they are not intended to be inflexible standards or to discourage creativity and innovation.

The site plan review criteria include the following per OHMC 19.48.050:

1. Consistency as determined under Chapter 18.20 OHMC [the permit process];

*Staff finds the Franklin Manor PRD & Site Plan to be consistent with OHMC 18.20. The Site Plan has been processed as a Type IV Site Plan as it is a multi-family residential development over 100 units. Proper public notice has been issued for the Site Plan application and all associated applications, including the PRD and SEPA.*

2. Mitigation of impacts to surrounding properties and uses;

*Proper screening will be in place for adjacent single family lots to the west and the multi-family lots (currently used as a childcare facility) to the south. Screening shall*

*include the installation of a 6 foot sight-obscuring wood fence along the western and southern property line and a 3 foot fifty percent open fence along SW Swantown Avenue. The project is most visible along SW Swantown Avenue and is complementary to other multifamily residential development in the area (Summer Wind, Regency on Whidbey). To ensure compatibility with neighboring land uses the PRD section of the OHMC requires that a 20 foot building setback applies to the perimeter of the project to reduce impacts on neighboring development. The exterior boundary setbacks have been increased to 25 feet along all boundaries.*

3. Mitigation of environmental impacts of the proposed site plan to the site;

*The site will retain 23% of the significant trees on site. A total of 15% are required as a minimum by Title 19.46 (Landscaping) in the OHMC. In addition to the 49 retained trees (32 required), several new trees will be planted throughout the site.*

*Additionally, the existing on-site septic systems (some of which are failing) will be vacated per Island County Department of Health standards. The SEPA Environmental Checklist submitted by the applicant and the resulting MDNS issued by the City list several mitigation measures for the site (Exhibit 8).*

4. Conservation of area-wide property values;

*This property is zoned R-4 or multi-family residential which is designated as a high-density use in the Comprehensive Plan. The proposal is a use permitted outright in the zoning district and was planned for in the Comprehensive Plan therefore no decrease in property values is anticipated. Additionally, the proposal will add more units than currently exist on the property so it is anticipated that the assessed taxable value of the property will increase.*

5. Safety and efficiency of vehicle and pedestrian circulation;

*Staff believes pedestrian and vehicle circulation should be safe and efficient both on site and along the new street frontage. Frontage improvements will include new sidewalk and planter strips along the narrowed SW Mulberry Place, in addition to repair for cracked or uneven sidewalks causing a trip-hazard on the existing SW Swantown Avenue. The project will also include a raised crosswalk for safe pedestrian crossing over SW Mulberry Place while also functioning as a traffic calming measure. Human scaled lighting at entrances and lighting at the vehicular access points will be downward directing and are required not to direct glare onto neighboring properties.*

6. Provision of adequate light and air;

*The Franklin Manor PRD & Site Plan provides several active open space areas on either side of SW Mulberry Place for pedestrian use (see also the Open Space section below in this report). The buildings have an increased setback from all property lines*

*due to the additional story on each building, and the buildings are separated sufficiently from one another. Staff believes the Site Plan provides adequate light and air.*

7. Mitigation of noise, odors and other harmful or unhealthy conditions;

*Two trash compactors and associated recycling containers will be fully enclosed, gated, and screened from the associated buildings. Staff believes the site will not produce unhealthy conditions on the site or onto adjacent properties.*

8. Availability of public services and facilities to accommodate the proposed use;

*Signage or striping will be required in the fire truck turn-around areas. Otherwise staff has found public services and facilities able to serve the use.*

9. Prevention of neighborhood deterioration and blight;

*Staff finds the redevelopment of the site should not create neighborhood deterioration.*

Additional site plan review criteria include the following per OHMC 19.48.037:

1. Consistency with the Comprehensive Plan;

*The proposed use is consistent with the land use designation (high density residential) in the Comprehensive Plan for the property.*

2. Consistency with Title 19, the Zoning Code;

*The proposed use is a permitted use in the R-4 zoning district. The density of the proposed project exceeds that of the zoning district however the increase in density is allowable if the applicant meets the requirements for a density bonus under the PRD code.*

3. Consistency with Title 20, the Environmental Code;

*No critical areas exist on the site. A Mitigated Determination of Nonsignificance was issued on August 18, 2010. Therefore, the proposal is consistent with Title 20 of the OHMC.*

4. Consistency with Public Services [Title 8 (fire protection), Title 12 (surface water management), Title 13 (water supply), Title 14 (sewage capacity) and Titles 11 and 17 (streets and sidewalks)];

*The proposed development contains adequate fire access and turnaround space and*

*all of its buildings will have automatic building sprinkler systems installed. The development is required to hook up to city water and sewer and the use of rain gardens and infiltration systems for stormwater treatment and detention is proposed. A new public street SW Mulberry Place will be constructed in order to serve the site and connect SW Swantown Avenue to SW Fort Nugent Avenue. The proposal contains sidewalks along the length of SW Mulberry Place and SW Swantown Avenue. Additionally, a multitude of internal sidewalks and pedestrian connections serve the site. The proposed use has been designed to consider all of the standards for public services and is consistent with this criterion.*

5. Consistency with Existing Public Facilities and Services;

*The proposed project is incorporating a new public street, a transit bus stop, stormwater facilities, and open space in order to not adversely impact other public facilities and services. Consistency with this criterion will be achieved by the above and the mitigation of potential impacts to public facilities and services through either the SEPA conditions of approval or in the recommended conditions of approval at the end of this report.*

6. Consistency with a Phasing Plan.

*The project will be phased. Consistency with this criterion will be achieved through the recommended conditions of approval.*

In the view of the staff, the project as described above and in the attached exhibits, in combination with the conditions as proposed below, will meet in full the criteria established for approval of the Franklin Manor PRD Site Plan.

As a PRD, the site incorporates increased open space, affordable housing units, and enhanced architectural features. The analysis of the PRD provisions is detailed in the following sections.

**PLANNED RESIDENTIAL DEVELOPMENT**

The proposed project utilizes the planned residential development (PRD) provisions in OHMC 19.31. The purpose of the PRD is to obtain higher quality site and architectural design by encouraging the design of more complete and sustainable neighborhood environments consistent with Oak Harbor's Comprehensive Plan.

Chapter 19.31 of the OHMC addresses the review standards and requirements for the PRD review. Chapter 19.48 (Site Plan) and the Design Guidelines & Regulations discusses the review standards and requirements for Type IV Site Plans. Chapter 19.46 addresses the review standards and requirements for the landscaping plans to be reviewed in conjunction with the site plan. Note that some overlap exists between these sections given the nature of the development proposal and review process.

The unique aspect of the PRD process is that it includes requirements for open space,

allows for variations in lot sizes and street standards, and requires architectural drawings demonstrating the character of the proposed development and demonstration of superior design components such as landscaping and reduction of impervious surfacing materials.

**PRD Review Criteria**

The Applicant has submitted for the PRD be reviewed concurrently with the Site Plan as allowed by OHMC 18.20.360(1). All submittal requirements for the PRD review (OHMC 19.31.180) have been included in the attached plans. An approval of the PRD will require that development shall conform in all major respects with these submitted plans. The Hearing Examiner's review and action on PRD applications shall be based on the following criteria numbered 1 through 7 (OHMC 19.31.170):

1. Aside from the specific regulations, requirements or standards proposed to be varied, the project otherwise meets the requirements of the Oak Harbor Municipal Code.

The proposal meets the requirements of the OHMC, including those related to open space, density, access to the development, permitted variation in requirements and off-street parking. The applicant will be signing an easement agreeable to the City to establish the new public right-of-way (SW Mulberry Place) prior to civil plan approval. A 50' street section is being used with sidewalks and planting areas on both sides of the street.

The applicant is seeking the following density bonuses based upon OHMC 19.31.090:

- a. Additional open space—1 percent (1%) increase in density for each one percent (1%) increase in open space over the minimum required (10%) under OHMC 19.31.100. Open space design must conform to the requirements of 19.31.110 and 19.31.120 OHMC. The applicant is providing an additional 13.5% of open space beyond the required 10%.
- b. Provisions for qualified affordable housing units as defined in 19.08.695 or lots dedicated for use in affordable housing projects—For every one (1) unit of affordable housing provided, five (5) additional units of market-rate housing are allowed - up to a 30 percent (30%) increase. The applicant is proposing four (4) units as qualified affordable housing.

Bonus densities are intended to provide the incentive to encourage the development of affordable housing, provide additional public amenities or preserve valuable natural or cultural resources and features.

**Open Space**

Title 19.31.100 requires 10% of the gross area dedicated towards Common Open Space. The gross area of the site is 5.57 acres (or 242,629 sq ft). The applicant has calculated the useable open space to be approximately 57,117 square feet (24,262 sq ft required). Therefore total open space is 23.5% for the site or 13.5% beyond the minimum of 10%.



The open space must be split between active and passive open space and meet the minimum size requirements for active open space per OHMC 19.31.110. No more than 50% of the required open space shall be passive and a minimum of 50% of the required open space shall be active. Active open space must also contain all of the amenities listed in OHMC 19.31.110(2), be visible and accessible to users, and have pedestrian connections to both sides of a residential block.

The active open space features proposed for this project include a leisure park with a rock and water feature and lawn bowling court between Buildings A and B in addition to a playground area between Buildings C & D. All other open space shown on the plans is passive open space and includes the yards and common space for the units. Approximately 13,338 sq ft is in active open space and the remainder or 10,924 sq ft is in passive open space. Staff finds the applicant has adequately met the open space density bonus criteria as the plans shows an excess of 13.5% open space beyond the required 10% and all of the standards for open space have been met.

#### **Qualified Affordable Housing**

The applicant is proposing four (4) qualified affordable housing units in exchange for a density bonus. The units must meet the definitions of qualified affordable housing per OHMC 19.08.695 and RCW 43.185A.010(1). The continued affordability of the units must be secured through registration of restrictive covenants on title, or other permanent measure.

For every one (1) unit of affordable housing provided, five (5) additional units of market-rate housing are allowed. The R-4 zoning district has a maximum of 22 units per acre. Therefore, with this proposal, the applicant is proposing four units multiplied by five or twenty (20) additional market rate units. However, the total density bonus cannot exceed thirty percent of the maximum base density. In this case, the applicant is asking to combine the open space and affordable housing unit bonuses, which when added together, equal 33.5% thereby exceeding the 30%. Therefore, the proposal may only be approved for a 30% density bonus.

The application is requesting a 29% density increase from 122 units (the maximum allowed in the R-4 zoning district) to 158 units. The applicant may receive 20% from the provision of qualified affordable housing and 13.5% for the increase in open space above the minimum of 10% for a maximum total density bonus of 30%. The applicant is choosing to not use the remainder 1% of the density bonus as it would only equate to one additional unit and the buildings plans for the site are fairly established.

Staff finds that in order to adequately meet the qualified affordable housing density bonus criteria the applicant must register a restrictive covenant other permanent measure prior to issuance of a building permit for the project.

2. Critical areas should be preserved and incorporated into the open space of the PRD.

Buffer averaging and buffer enhancements shall qualify as preservation if such is recommended in an approved critical areas report.

There are no critical areas on site. This criterion is not applicable to this application.

3. If smaller lot sizes and dimensions or decreased setbacks are proposed from what is required by the underlying zoning, buildings on these lots must meet requirements (a) to (c) below or requirement (d), or requirement (e):
  - a. Garage walls facing the street must be no closer than the wall containing the main entrance, or to the edge of a covered porch or deck if provided.
  - b. A garage door wall which faces the street must not be more than one-half (1/2) of the façade width.
  - c. The main entrance must be prominent, easily visible and directly accessible from the street frontage.
  - d. No two (2) adjacent buildings on the same side of the street may have the same front setback. Setbacks must alternate from building to building. Minimum front setback variation must be two feet (2') or greater.
  - e. Residential buildings are accessed from an alley at the rear of the lots.

Smaller lots sizes and decreased setbacks are not proposed for this development. This criterion is not applicable to this application.

4. If non-residential uses are included in the PRD, such uses shall be easily accessible to pedestrians meaning that primary building entrances are oriented to the street and setback no more than ten feet (10') from the property line or a six-foot (6') wide pedestrian path is included connecting the nearest public sidewalk to the primary entrance of the secondary use.

All uses proposed in this PRD are residential uses. This criterion is not applicable to this application.

5. Ten percent (10%) common open space is provided which complies with sections 19.31.110 through 19.31.130 OHMC.

The proposal meets and exceeds the 10% common open space requirement. Please see the *Open Space* section above.

6. The PRD shall comply with all of the following adopted standards:
  - a. The requirements of Title 21 Subdivisions. Variations from the requirements in Title 21 may be requested and reviewed as part of the PRD application. Other than the specific standards being varied from PRDs must meet all applicable standards of Title 21, including the general design standards (Chapter 21.50) and the residential design standards (Chapter 21.60).
  - b. The standards and requirements of Chapter 19.31 Planned Residential Developments. If there is a conflict between the standards of this chapter and the standards in Title 21, the standards in this chapter shall take precedence.

- c. The Oak Harbor Comprehensive Plan policies.
- d. The Design Guidelines and Regulations, if applicable.
- e. All other standards adopted by the City of Oak Harbor, including engineering details and drawings.

- a. There will be no subdivision of the land as a result of this proposal. Therefore, this criterion is not applicable to this application.
- b. Staff has reviewed the application for conformance with Chapter 19.31 Planned Residential Developments. The proposal largely conforms to that chapter however there are several outstanding items; they are included in this report as conditions of approval. In addition, the Hearing Examiner and City Council shall base their review on upon the criteria listed in this report.
- c. The site has a Comprehensive Plan Land Use designation of High Density Residential and a zoning designation of High Density Residential, as do the parcels to the south, east and north. The proposed use is listed as a permitted use in the R-4 zoning district. The parcels to the west are developed single family residences in the R-1 zoning district. Given the design character and density, the use of street trees and traffic calming measures, and the fencing and screening around the perimeter including landscaping, the proposal is viewed as being compatible with surrounding land uses or future uses.
- d. The Design Regulations and Guidelines are applicable to this project. The street pattern and design, the building layout, and the orientation of the open space create a compatible design character with neighboring uses, both existing and future. Increased landscaping, screening, and pedestrian connections are also a result of the applicant complying with the Design Regulations and Guidelines.
- e. The proposal will comply with all other adopted applicable standards including engineering details and drawing as a condition of approval. More detailed utility plans will be provided during the Civil Plan review process.

7. Applicants must meet either subsection (a) or (b) below:

- a. Enhanced design which includes one (1) or more of the following on each building within the development:
  - (i) A variety of exterior building materials such as brick, stucco, stone, and wood used as primary siding or as accent materials on front facades or,
  - (ii) Building articulation (offsetting walls, inclusion of windows, changes in material types) on side and rear walls of buildings or,
  - (iii) Side or rear loaded garages or,
  - (iv) Other applicant proposed building design enhancements.

- b. Optional site design elements which includes one (1) or more of the following:
- (i) Low impact development stormwater techniques are employed on the site.
  - (ii) Ten percent (10%) or more of units within the development are "qualified affordable housing" as defined by 19.08.695.
  - (iii) Inclusion of a mix of residential and non-residential uses within the development.
  - (iv) Fifteen percent (15%) or more of the gross area is open space.
  - (v) The project will not only preserve, but enhance or rehabilitate the functions and values of a critical area of the site, such as significant woodlands, wildlife habitats, streams or wetlands, subject to the recommendations in an approved critical areas report.

The proposal satisfies both requirements a(ii) and b(iv) above by the following:

- The elevations for the buildings incorporate a variety of articulation on all sides of the buildings. There are offset walls on every side of the buildings as well as numerous windows and railings for unit balconies. The materials used include a mix of stone, hardiplank siding and shingles, and cedar rails (see Exhibit 6).
- The project is providing 23.5% open space in a mix of active and passive form. This exceeds the 15% requirement above. (Please see the *Open Space* section above).

Staff finds that the proposal meets the purpose of the PRD district and the associated Hearing Examiner and City Council review criteria for approval of the PRD (OHMC 19.31).

#### **ADMINISTRATIVE VARIANCES**

The applicant has applied for two administrative variances. The first variance is a five percent (5%) increase in the maximum allowed building height of 35 feet from the zoning district and is being processed under the provisions of OHMC 19.66.090 (Administrative Variances). The second administrative variance is a request to vary from some of the Design Regulations and Guidelines (DRG) under the provisions of Section 6 of the DRG document. Staff has interpreted the provisions of Section 6 of the DRG to mean that an administrative variance from the DRG is subject to the same review criteria as those listed in 19.66.090(3).

#### **Building Height**

1. The applicant applied for an administrative variance for a 5% increase in building height. The maximum building height in the R-4 zoning district is 35 feet. A 5% increase in building height sets the maximum at 36.75 feet. Staff has calculated the building height as defined by OHMC 19.08.115. The building height was calculated by taking the building height shown on each of the building elevations then the ground floor elevation and the average natural grade were factored in. Increasing the building height does not allow an

increase in the number of dwelling units for this project nor does it create detriment to the public health, safety and welfare or injury to nearby property or improvements, thus staff found it consistent with the provisions of OHMC 19.66.090. The proposed building heights in combination with the 5% administrative variance meet the requirements of the Oak Harbor Municipal Code. Staff recommends that this administrative variance be approved.

#### **Design Regulations and Guidelines**

2. The applicant applied for a second administrative variance for locating Building D away from the front of the property due to the location of an existing sewer line. The applicant included a figure labeled Option B (Exhibit 9) illustrating how the site would look if Building D was located along the front setback as required by Section 1.i.4 of the DRG. The Option B site plan demonstrates a better use of building space, parking space, and open space given the unique shape of the parcel. However putting the building in that location impedes access to the sewer, thus it is not possible to locate the building at the front property line. The sewer line services the property adjacent to the south of the subject property (The Children's Academy). Any future maintenance work to the sewer line would create a major inconvenience to both the Children's Academy and Building D residents. Therefore, the applicant is requesting an administrative variance to the following regulations contained in the DRGs:

- a. 1.i.4 - Buildings shall be placed at the front setback line.
- b. 1.i.2 - Orient buildings, entrances, windows and activities to face the street.
- c. 1.i.12 - Buildings should be designed for the city context and directed to the street not toward the neighbor or parking areas.
- d. 1.iv.5 - Parking for cars or garage doors should not front the street as much as practicable; as well, unenclosed parking areas shall not be located closer to the street than the front edge of the building, or between the building and the street.

Each design regulation listed above relates to the building location on the site. The applicant is asking to vary from these regulations due to the location of the existing sewer line. The existence of a sewer line across the property that serves the adjacent property to the south serves as a special circumstance that is particular to this parcel in terms of location that prevents the applicant from following the requirements of the design guidelines. The proposed Building D location otherwise meets the DRG. In addition, the applicant is better meeting the DRGs by including open space with a playground, 3 foot fencing, and buffer landscaping between Swantown Avenue and the parking area for Building D. Staff recommends that this variance be approved subject to the following conditions:

1. The administrative variance from the Design Guidelines and Regulations 1.i.4, 1.i.2, 1.i.12, and 1.iv.5 shall only apply to Building D.

2. The applicant shall comply with all other Design Regulations & Guidelines.

**RECOMMENDED ACTION:**

The decision of the Hearing Examiner shall be in the form of a recommendation to the City Council. Staff recommends that the examiner forward a recommendation of approval to the City Council for SIT-07-00001, PLN-07-00001 and PLN-07-00002, subject to the following conditions:

1. Approval of the Site Plan requires general conformance to the submitted exhibits. These exhibits include: Site Plan Sheets SP1 & SP-2 dated 8/24/10, Landscape Plans L-1, L-2, L-3, L-4, L-5, L-6, and L-7 dated 8/24/10; and Building Elevations A1 and A2 dated 8/24/10. Minor modifications may be permitted subject to approval by the City of Oak Harbor (OHMC 19.48.090).
2. All of the mitigation measures identified in the Applicant's SEPA checklist as dated June 18, 2010 and all mitigation measures listed in the MDNS issued August 18, 2010 shall be implemented.
3. Transportation Concurrency fees must be paid at the time of issuance of building permits (OHMC 3.63.065). Forty-two mobile home units shall be subtracted from the 158 new units for a total payment of \$105,212. The transportation impact fee credit for existing units shall only be applied for the actual number of existing mobile home units removed at the time of the issuance of each building permit.
4. Neighborhood and Community Park Impact Fees shall be paid at the time of issuance of the building permit (per unit) (OHMC 3.63.030).
5. The administrative variance from the Design Guidelines and Regulations 1.i.4, 1.i.2, 1.i.12, and 1.iv.5 shall only apply to Building D.
6. All septic systems must be removed or terminated according to Island County Department of Health Standards. If the well is to be abandoned, it must be done per State Department of Ecology requirements. If it is not to be abandoned, well setback radii need to be observed.
7. The right-of-way easement for SW Mulberry Place must be signed by the applicant prior to civil plan approval [19.48.037(4)(f)].
8. All easements described in the application materials must be written, approved by the City and recorded prior to occupancy of the first permitted building [19.48.037(4)(f)]. Bill of sale paperwork for public improvements must be completed as part of the ownership transference process prior to occupancy.
9. All public and private improvements will need to be completed during Phase I as

shown on the plan before a certificate of occupancy may be issued (OHMC 19.90.020). This includes, frontage improvements to SW Mulberry Place and SW Swantown Avenue, landscaping for Phase I, parking for Buildings C & D, Fire Department access and turn-around, fire hydrant, pedestrian connection to the street, and compactor installation. Exposed soils in Phase II or in any other exposed areas on-site must be stabilized according to Best Management Practices of the DOE Stormwater Manual.

10. Project phasing shall be clearly indicated on the civil engineering plans and shall include a sequence of construction work including but not limited to: clearing and grading, utility installation and connections, road construction, implementation of any wellhead protection requirements per Federal, State, and County regulations, well abandonment, septic abandonment, and building construction. [OHMC 19.48.037(6)].
11. All landscaping shall be irrigated [OHMC 19.46.040(7)]. An irrigation plan shall be submitted prior to civil plan approval.
12. All project (i.e. Franklin Manor) signs will require a sign permit [19.48.035(2)(h)].
13. The stormwater system and utility coordination for the Project shall be subject to the DOE Technical Manual, to Best Management Practices, and shall be subject to review and approval by the City (OHMC 12.30.310).
14. Submittal of mylar "as-built" drawings stamped and signed by the project engineer is required prior to acceptance of public improvements. A maintenance surety of no less than 10% of the final construction costs for all public improvements is required prior to occupancy (OHMC 19.90.030).
15. An automatic sprinkler system installed in accordance with Section 903.3 shall be provided through-out all buildings with a Group R fire area. IFC 903.2.7
16. An approved water supply capable of supplying the required fire flow for fire protection shall be provided to premises upon which facilities, buildings or portions of buildings are hereafter constructed or moved into or within the jurisdiction. IFC 508.1
17. Fire hydrants shall be installed as per fire flow and spacing requirements specified for the type of development and in accordance with the Fire Department specifications. Chapter 6 of the Fire Protection Features.
18. Dead-end fire department access roads in excess of one hundred and fifty 150 feet long shall be provided with approved turn around provocations. Chapter 6 City Fire Protection Features. Marked turn-around areas must be sufficiently delineated to show the turn-around. The proposed locations at the A and D

buildings is acceptable. Signage and/or stripping are required.

19. The fire department requires ATB or the final lift of asphalt be installed prior to combustibles on site. (IFC 501.4)
20. Submit two (2) sets of fire alarm and fire sprinkler system plans to the fire department for review and approval. (IFC 901.2)

R13203-139-1440

AMBERDALE

VICINITY MAP



SUNNER WIND SPORT PLAT

SW MULBERRY PL

20 R13203-066-1860

R13203-066-2010

SW FORT NUGENT AVE

**EASEMENT NOTES**

1. ALL EASEMENTS ARE SHOWN IN RED.
2. EASEMENTS ARE SHOWN AS DASHED LINES.
3. EASEMENTS ARE SHOWN AS DASHED LINES WITH THE FOLLOWING NOTATION:
  - 1. 10' EASEMENT TO ADJACENT PARCEL.
  - 2. 5' EASEMENT TO ADJACENT PARCEL.
  - 3. 10' EASEMENT TO ADJACENT PARCEL.
  - 4. 5' EASEMENT TO ADJACENT PARCEL.

**UTILITY NOTES**

1. ALL UTILITIES ARE SHOWN IN BLACK.
2. UTILITIES ARE SHOWN AS SOLID LINES.
3. UTILITIES ARE SHOWN AS SOLID LINES WITH THE FOLLOWING NOTATION:
  - 1. 10' EASEMENT TO ADJACENT PARCEL.
  - 2. 5' EASEMENT TO ADJACENT PARCEL.
  - 3. 10' EASEMENT TO ADJACENT PARCEL.
  - 4. 5' EASEMENT TO ADJACENT PARCEL.

**GENERAL NOTES**

1. ALL DIMENSIONS ARE IN FEET AND INCHES.
2. ALL DIMENSIONS ARE TO FACE UNLESS OTHERWISE NOTED.
3. ALL DIMENSIONS ARE TO FACE UNLESS OTHERWISE NOTED.
4. ALL DIMENSIONS ARE TO FACE UNLESS OTHERWISE NOTED.
5. ALL DIMENSIONS ARE TO FACE UNLESS OTHERWISE NOTED.
6. ALL DIMENSIONS ARE TO FACE UNLESS OTHERWISE NOTED.
7. ALL DIMENSIONS ARE TO FACE UNLESS OTHERWISE NOTED.
8. ALL DIMENSIONS ARE TO FACE UNLESS OTHERWISE NOTED.
9. ALL DIMENSIONS ARE TO FACE UNLESS OTHERWISE NOTED.
10. ALL DIMENSIONS ARE TO FACE UNLESS OTHERWISE NOTED.

**FRANKLIN MANOR**  
**1215 SWANTOWN AVE.**  
**OAK HARBOR, WASHINGTON**  
**PARCEL # R13203-110-730**  
**PROJECT SURVANT - 08-11-20**

**FRANKLIN MANOR**  
**SITE PLAN**

**1215 SWANTOWN AVE.**



SP1  
 EXHIBIT 1

89

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JUN 30 2010

CITY OF OAK HARBOR  
Development Services Department

**FRANKLIN MANOR – MULTI-FAMILY PROJECT**

**PROJECT DESIGN NARRATIVE**

Revised June 29, 2010

The site for Franklin Manor is currently an ageing manufactured housing development called Windmill Court. In addition the site contains other older out buildings and a house. All existing buildings, septic tanks, and wells will be removed or abandoned. There are many large evergreen trees on the site and as many as reasonable will be kept. The remaining areas are all grass and invasive vegetation. An extensive landscape plan has been provided and all planting will be low maintenance and not require irrigation beyond the initial year to insure plant success.

The proposed development for 1215 Swantown Avenue is for a 158 unit multi-family project. There are four buildings and they contain between 35-44 units each. The buildings will be four stories tall and will have 5-6 garages on the ground level and an elevator for each building. The client intends to build this project in phases and Phase 1 will include the continuation of SW Mulberry Pl. through the site and Building "C". The extension of SW Mulberry Pl. for this project will become a dedicated ROW to the City of Oak Harbor after the completion and final approval of the road and buildings "C" & "D". The design style of the buildings will contain Northwest accents. We are using varying heights and a variety of cantilevers and recessed decks to help soften the scale of the overall project. The use of the "L" shaped building footprint helps reduce the scale and forms a stronger connection to the site.

The site plan contains many features that help strengthen the overall scheme of the project. The buildings help form areas that allow many of the interior trees to remain and enhance the overall feel of the spaces. A majority of the units have

been oriented to take advantage of the views to the park or desirable off-site amenities. There will be the use of water at the leisure park to help mask the sound of vehicle traffic from the proposed street that passes through the project. The second people space is left as an open yard to allow the residence to use this area in less structured ways. There will be a combined use of retaining walls and grading to allow for the taller buildings to better blend into the site from the street levels. The buildings will look like three- and-a-half story buildings along Swanton Avenue.

Even with the inherent difficulty on this site, we have strived to meet or exceed all applicable requirements of the Oak Harbor municipal code. In order to help mitigate the effects of our buildings on adjacent buildings we increased the side setbacks to twenty-five feet at all locations. The project will greatly increase local property values as well as provide additional transportation amenities. In addition we have selected to add 4 affordable units to increase our unit density and this will also help fulfill a need for affordable housing in the region.

Overall it was the goal of this project to maximize the visual character of the buildings and landscape. The units will be rented as apartments to meet the needs of a variety of income levels. We hope that through building placement, shape and design that this project will not only enhance the area but also give Oak Harbor a model project that the citizens can point to with pride.

PROJECT SITE



EXHIBIT 2

# HAVEN

DESIGN ARCHITECTS

March 26, 2010

Included in this packet are the following:

**Application Forms**

- Pre-Application
- Parcel Summary Report
- Preliminary Plat
- Site Plan Review (IV)
- Design Review Checklist
- Civil Plan
- Grading
- Transportation Concurrency
- Critical Areas Identification

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CITY OF OAK HARBOR  
Public Works Department

**Project Design Narrative**

**Project Summary**

**Height Variance w/ Associated Clarifications**

**SEPA**

**Architectural Cover Sheet & Site Plans (C1, C2)**

**Architectural Elevations & Floor Plans**

**Civil Plans and Details**

**Landscape Plans & Detail**

**Building Height Variance (Administrative)**

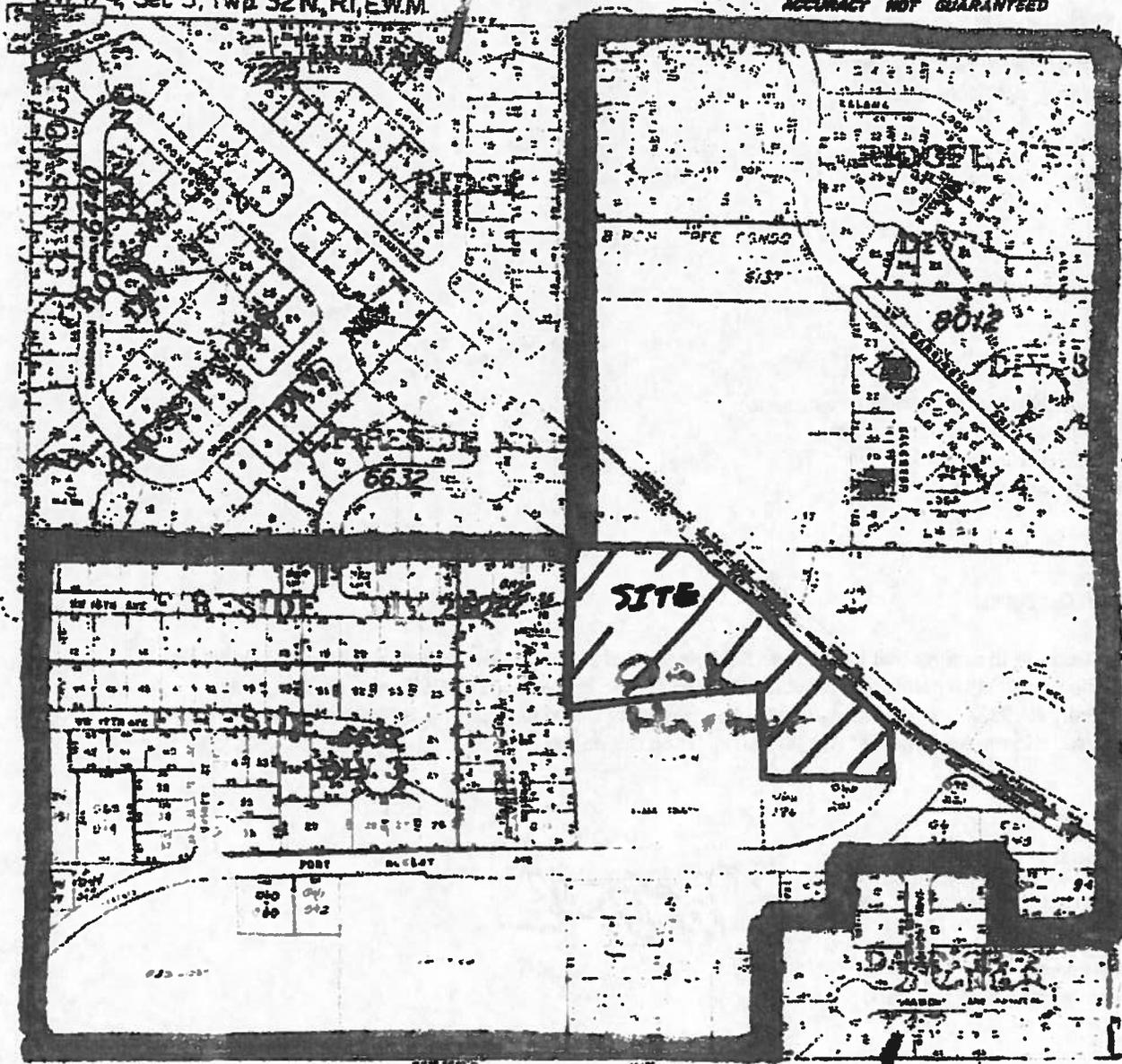
**Stormwater Report**

**Traffic Impact Study**

**Mailing List and Map**

SW 1/4, Sec 3, Twp 32 N, R1, E.W.M.

DO NOT USE AS A LEGAL DOCUMENT  
ACCURACY NOT GUARANTEED



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APR 13 2010  
CITY OF OAK HARBOR  
Development Services Department

This plan was adopted by  
Ordinance C-24-07, PLU-015-02  
Signed by the Bldg Code 4-13-2010

25  
94

EXHIBIT 3

**Windmill Court, LLC**

15015 Main Street, Suite 203  
Bellevue, WA 98007

April 2, 2010

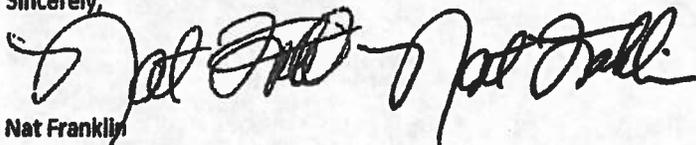
City of Oak Harbor-Planning Department  
c/o Lisa Bebee-Permit Coordinator  
865 SE Barrington Drive  
Oak Harbor, WA 98277

**RECEIVED**  
APR 2 2010  
CITY OF OAK HARBOR  
Development Services Department

Dear Lisa Bebee:

This letter is to confirm that I have given Sean Hegstad of Haven Design Workshop and Todd Lapinsky of Credo Construction permission to submit Franklin Manor, located at 1215 SW Swantown Ave., Oak Harbor, WA 98277. By doing this, I understand that they will be representing my interest in this project and will address concerns that will have an affect on this on this project.

Sincerely,



Nat Franklin  
Manager, Windmill Court LLC

no Printed: 7/12/2006  
 no Printed: 9:28:48 AM  
 ip://www.islandcounty.net  
 assessor@islandcounty.net

# Island County Assessors Office

## Parcel Summary Report

PO Box 1000 Coupeville, WA 98239

002/007  
 North: (360) 676-7303  
 South: (360) 321-8111  
 Camano: (360) 829-4522  
 Fax: (360) 240-8585

**Account ID** 84390  
**Parcel Number** R13203-110-1730

**Location Address**  
 1215 SWANTOWN AVE

**Owner Name and Address**  
 WINDMILL COURT LLC  
 5015 MAIN STREET SUITE 203  
 BELLEVUE, WA 98007

Value	Current	Previous
Land	\$714,420	\$714,420
Structures	\$51,970	\$49,405
Other Features	\$90,187	\$90,520
<b>Total Market</b>	<b>\$856,577</b>	<b>\$854,345</b>
<b>Total Assessed</b>	<b>\$856,577</b>	<b>\$854,345</b>
<b>Taxable</b>	<b>\$856,577</b>	<b>\$854,345</b>
<b>New Const.</b>	<b>\$0</b>	<b>\$0</b>

**Area Zoning** SA  
**Sale Date** 3/29/2006  
**Map #** 80  
**Exemption** .58

**Legal Description**

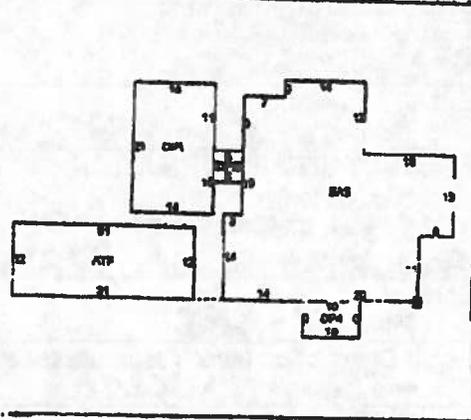
1/2 SE 6W 6G NW 1/4 CR SE 6W 6330' E 462' S 228' E 327.17' N TO SLN RD NWLY ALG RD TO NLN SE SW W 322.2' TPB ALSO 1/2 NW CR SE 6W 6330' TPB 820' SWLY TO 85' OF TPB N 85' TO TPB EX PT TO IS CO FOR RD FR 078-1980, 091-1940 289-1500 & 117-1680 WINDMILL MOBILE HOME COURT

No	Date	Sale Price	Qual	Attchmt #	Auditor File #	Sold To
19	2008	\$2,378,000	Q	61363	4168971	WINDMILL COURT LLC
18	2005	\$0	U	60097	4168280	WALDEN FAMILY LLC
17	1998	\$0	U	65580	9301983	STEPHEN M WALDEN
16	1991	\$30,000	U	94509	9101344	STEPHEN M WALDEN
		\$0		0	0	STEPHEN M WALDEN

Tax Year	Taxed	Due
2008	\$7,731.88	\$3,895.63
2005	\$7,906.06	\$0.00
2004	\$7,307.38	\$0.00
2003	\$8,822.22	\$0.00

Area Type	Description	Units
ATP	RES - Sq. Feet	243000
OP	Description	Units
2	FIREPL SGL	1
WR	GARAGE WD	1272
18	MOBILE HOME SPACE	44
11	10K GALLON TANK	10000
1M	PUMP HOUSE	106
6	PLUMB S FX	1
1	UTILITY WD	144

**Element** Foundation: CONCRETE  
 Floor struct: WOOD W/SUBFLOOR  
 Floor cover: CARPET/VINYL 60-40  
 Ext wall/cvr: WOOD SIDING  
 Ceiling: DRYWALL PAINTED  
 Roof t/cvr: CJ ASPHALT  
 Roof laps: 8" IN 12"  
 Int finish: DRYWALL PAINT  
 Heat g: FHA GAS  
 Cool g:  
 Electrical: ROMAX  
 Insulation: CEILING ONLY



Bedrooms: 2  
 Bath: 1.0  
 Case: 2  
 Quality: E  
 Year built: 1903

Area Type	Square Feet	Cost/Square Feet
BAS	1096	N/A
ATP	372	N/A
OP1	294	N/A
OP2	25	N/A
OP4	60	N/A

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 Development Services Department

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**CITY OF OAK HARBOR  
Development Services Department**

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**Preliminary Plat  
Application Form**

APR 1 2010

CITY OF OAK HARBOR  
Development Services Department

**Project Name:** FRANKLIN MANOR

**Description of Proposal:**  
15K UNIT (4 BLDG) MULTI FAMILY PROJECT

<b>APPLICANT NAME/CONTACT PERSON</b> (or legal representative): <u>SEAN HIGGINS HAVEN DESIGN WORKSHOP</u>	<b>Address:</b> <u>907 WARREN AVE, #301 BELLINGHAM, WA 98225</u>
<b>E-mail Address:</b> <u>SEAN@HAVEN-DW.COM</u>	<b>Phone and Fax:</b> <u>360)527-2840 F)360)527-2948</u>
<b>PROPERTY OWNER NAME</b> (list multiple owners on a separate sheet): <u>WINDOMBLE COURT LLC</u>	<b>Address:</b> <u>15015 MAIN ST, SUITE 203 BELLEVUE, WA 98007</u>
<b>E-mail Address:</b>	<b>Phone and Fax:</b> <u>425)746-2313, 425-746-6595</u>
<b>ENGINEER/SURVEYOR:</b> <u>Don &amp; CARROLL APE ENGINEERS</u>	<b>Address:</b> <u>1701 ASTOR ST. BELLINGHAM, WA 98225</u>
<b>E-mail Address:</b> <u>APEENGINEERS@QNAI.COM</u>	<b>Phone and Fax:</b> <u>360)671-1146 F)360)671-1169</u>
<b>PROJECT SITE INFORMATION</b> (address/location): <u>1215 SW SHANTOWN AVE. OAK HARBOR, WA 98277</u>	<b>Comp. Plan Designation:</b>
<b>Zoning:</b> <u>MULTI-RES.</u>	<b>Parcel Number(s):</b> <u>R 13203-10-1730</u>
<b>Legal Description</b> (attach separate sheet): <u>-SEE ATTACHED</u>	<b>Acreage of Original Parcel(s):</b> <u>3.57</u>
<b>Section/Township/Range:</b>	<b>Number of Lots:</b> <u>1 CURRENT 2 FUTURE</u>

**AUTHORIZATION:**

The undersigned hereby certifies that this application has been made with the consent of the lawful property owner(s) and that all information submitted with this application is complete and correct. False statements, errors, and/or omissions may be sufficient cause for denial of the request.

[Signature]  
Authorized Signature

3.26.10  
Date



**CITY OF OAK HARBOR**  
**Development Services Department**

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**Site Plan**  
**Application Form**

AUG 1 2010

**Project Name: FRANKLIN MANOR**

CITY OF OAK HARBOR  
 Development Services Department

**Description of Proposal: 158 UNIT (+ BLDG.) MULTI-FAMILY PROJECT**

<b>APPLICANT NAME/CONTACT PERSON</b> (or legal representative): <b>SEAN HEGSTAD</b> <b>HAVEN DESIGN WORKSHOP</b>	<b>Address:</b> <b>907 HARRIS AVE, SUITE 301</b> <b>BELLEVUE, WA 98005</b>
<b>E-mail Address:</b> <b>SEAN@HAVEN-DW.COM</b>	<b>Phone and Fax:</b> <b>360.527.2890 F.360.527.2844</b>
<b>PROPERTY OWNER NAME</b> (list multiple owners on a separate sheet): <b>WINDMILL COURT LLC</b>	<b>Address:</b> <b>1505 MAIN ST, SUITE 203</b> <b>BELLEVUE, WA 98007</b>
<b>E-mail Address:</b>	<b>Phone and Fax:</b> <b>425.746.2313 F.425.746.6595</b>
<b>ENGINEER/SURVEYOR:</b> <b>DOUG CAMPBELL</b> <b>APC ENGINEERS</b>	<b>Address:</b> <b>1401 ASTOR ST.</b> <b>BELLEVUE, WA 98005</b>
<b>E-mail Address:</b> <b>APCENGINEERS@NAE.COM</b>	<b>Phone and Fax:</b> <b>360.671.1166 F.360.671.1169</b>
<b>PROJECT SITE INFORMATION</b> (address/location): <b>1215 SW SWANTOWN AVE.</b> <b>OAK HARBOR, WA 98277</b>	<b>Comp. Plan Designation:</b> <b>HIGH DENSITY RESIDENTIAL</b>
<b>Zoning:</b> <b>MULTI-RES.</b>	<b>Parcel Number(s):</b> <b>R13203-110-1730</b>
<b>Legal Description</b> (attach separate sheet): <b>-SEE ATTACHED</b>	<b>Acresage of Original Parcel(s):</b> <b>5.57 ACRES</b>
<b>Section/Township/Range:</b>	<b>Total Square Footage of Proposed Building or Number of Units:</b> <b>158 UNITS</b>

**AUTHORIZATION:**

The undersigned hereby certifies that the property affected by this application is in the exclusive ownership of the applicant or that the applicant has submitted the application with the consent of all owners of the affected property. In addition, the undersigned hereby certifies that all information submitted with this application is complete and correct. False statements, errors, and/or omissions may be sufficient cause for denial of the request.

*Sean Hegstad*  
 \_\_\_\_\_  
 Authorized Signature

**5.21.09**  
 \_\_\_\_\_  
 Date



**CITY OF OAK HARBOR**  
**Development Services Department**

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APR 2010

~~Subdivisions~~  
**Civil Plan Review Form**

CITY OF OAK HARBOR  
 Development Services Department

Subdivision Name: **FRANKLIN MANOR**

Division:

<b>APPLICANT NAME/CONTACT PERSON</b> (or legal representative): <b>SEAN NEGRAD</b> <b>HAVEN DESIGN WORKS</b>	Address: <b>907 HARVEST AVE, SUITE 301, BELLEVUE, WA</b>
E-mail Address: <b>SEAN@HAVEN-DW.COM</b>	Phone and Fax: <b>(360) 527-2990 F.(360) 527-2944</b>
<b>PROPERTY OWNER NAME</b> (list multiple owners on a separate sheet): <b>WINDMILL COURT LLC</b>	Address: <b>15015 MASH ST, SUITE 203 BELLEVUE, WA 98007</b>
E-mail Address:	Phone and Fax:
<b>ENGINEER/SURVEYOR:</b> <b>DOUG CAMPBELL</b> <b>APC ENGINEERS</b>	Address: <b>1401 ASTOR ST. BELLEVUE, WA 98005</b>
E-mail Address: <b>APCENGINEERS@NAS.COM</b>	Phone and Fax: <b>(360) 671-1146 F. (360) 671-1169</b>
<b>PROJECT SITE INFORMATION</b> (address/location): <b>1215 SW SWANTOWN AVE. OAK HARBOR, WA 98277</b>	
Zoning: <b>MULTI-RES.</b>	Parcel Number(s): <b>R 13203-110-1790</b>
Number of Lots: <b>1 CURRENT UP TO 4 FUTURE</b>	Acreage of Original Parcel(s): <b>5.57</b>

**AUTHORIZATION:**

The undersigned hereby certifies that this application has been made with the consent of the lawful property owner(s) and that all information submitted with this application is complete and correct. False statements, errors, and/or omissions may be sufficient cause for denial of the request.

*[Handwritten Signature]*

**5.26.10**

Authorized Signature

Date



**CITY OF OAK HARBOR**  
**Development Services Department**

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2010

**Grading**  
**Application Form**

CITY OF OAK HARBOR  
 Development Services Department

Submittal requirements are to provide City staff with description of all ground disturbing activity such as cutting and filling. For excavation and fill on the same site, the fee shall be based on the volume of excavation or fill, whichever is greater per OHMC 3.64.535. Submit at time of Civil Plan review (4 copies).

Project name: **FRANKLIN MANOR**

<b>APPLICANT NAME/CONTACT PERSON</b> (or legal representative): <b>SPAIN MESTAD</b> <b>HAVEN-OFFSHORE WORKS</b>	<b>Address:</b> <b>907 HARRIS AVE, 301</b> <b>RELLINGHAM, WA 98225</b>
<b>E-mail Address:</b> <b>SPAIN.HAVEN@OW.COM</b>	<b>Phone and Fax:</b> <b>(360)527-2840 F.(360)527-2844</b>
<b>PROPERTY OWNER NAME</b> (list multiple owners on a separate sheet): <b>WINDMILL COURT LLC</b>	<b>Address:</b> <b>15015 MASH ST, SUITE 203</b> <b>RELLINGHAM, WA 98007</b>
<b>E-mail Address:</b>	<b>Phone and Fax:</b> <b>(425)746-3717 F.(425)746-6595</b>
<b>ENGINEER/SURVEYOR:</b> <b>APC Engineers</b>	<b>Address:</b> <b>1401 Astor Street</b> <b>Bellingham, WA 98225</b>
<b>E-mail Address:</b> <b>office@apcengineers.com</b>	<b>Phone and Fax:</b> <b>360-671-1146</b>
<b>PROJECT SITE INFORMATION</b> (address/location): <b>1215 SW SWANTOWN RD</b> <b>OAK HARBOR, WA 98277</b>	<b>Parcel Number(s):</b> <b>R13203-110-1730</b>
<b>Legal Description</b> (attach separate sheet): <b>SEE ATTACHED</b>	<b>Acreage of Original Parcel(s):</b> <b>5.57 ACRES</b>
<b>Total cubic yards cut:</b> <b>+/- 15,000 CY</b>	
<b>Total cubic yards fill:</b> <b>+/- 8,500 CY</b>	
<b>Total cubic yards removed from site:</b> <b>+/- 6,500 CY</b>	

**AUTHORIZATION:**

The undersigned hereby certifies that this application has been made with the consent of the lawful property owner(s) and that all information submitted with this application is complete and correct. False statements, errors, and/or omissions may be sufficient cause for denial of the request.

*[Handwritten Signature]*  
 Authorized Signature

**3-25-10**  
 Date



**CITY OF OAK HARBOR  
Development Services Department**

**Transportation Concurrence  
Application Form**

**RECEIVED**

**Project Name:** FRANKLIN MANOR

2010

**Description of Proposal:** 157 UNIT (4 BLDG.) MULTI-FAMILY PROJECT

CITY OF OAK HARBOR  
Development Services Department

<b>APPLICANT NAME/CONTACT PERSON</b> (or legal representative): <u>SEAN NEESAD HAVEN DESIGN WORKSHOP</u>	<b>Address:</b> <u>907 HARRIS AVE. SUITE 301 BELLINGHAM, WA 98225</u>
<b>E-mail Address:</b> <u>SEAN@HAVEN-DW.COM</u>	<b>Phone and Fax:</b> <u>360 527-2840 (360) 527-2944</u>
<b>PROPERTY OWNER NAME</b> (list multiple owners on a separate sheet): <u>NENDWELL COURT LLC</u>	<b>Address:</b> <u>15015 MAIN ST., SUITE 203 BELLEVUE, WA 98007</u>
<b>E-mail Address:</b>	<b>Phone and Fax:</b> <u>425 746-2313 F. 425 746-1595</u>
<b>LICENSED TRAFFIC ENGINEER:</b> <u>EDWARD KOLTONOWSKI GIBSON TRAFFIC CONSULTANTS</u>	<b>Address:</b> <u>2802 WETMORE AVE. SUITE 220 EVERETT, WA 98201</u>
<b>E-mail Address:</b>	<b>Phone and Fax:</b> <u>425 339-8205 F 425 258-2922</u>
<b>PROJECT SITE INFORMATION</b> (address/location): <u>1215 SW SUMMIT AVE OAK HARBOR, WA 98277</u>	<b>Number of Lots:</b> <u>1 CURRENTLY - 2 FUTURE</u>
<b>Total Length of Private Streets:</b> <u>1244'</u>	<b>Total Length of Public Streets:</b> <u>350'</u>
<b>Zoning:</b> <u>MULTI RES.</u>	<b>Existing Property Use (Residential/Commercial):</b> <u>RESIDENTIAL</u>
<b>Legal Description (attach separate sheet):</b> <u>SEE ATTACHED</u>	<b>Parcel Number(s):</b> <u>R12203-110-1730</u>
<b>Section/Township/Range:</b>	<b>Size of Property (sq.ft./acres):</b> <u>5.57 ACRES</u>

**AUTHORIZATION:**

The undersigned hereby certifies that this application has been made with the consent of the lawful property owner(s) and that all information submitted with this application is complete and correct. False statements, errors, and/or omissions may be sufficient cause for denial of the request.

*Sean Neesad*  
Authorized Signature

3.26.10

Date



**CITY OF OAK HARBOR**  
Development Services Department

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APR 2010

**Critical Area Identification Form**

Project Name (if applicable): **FRANKLIN MANOR**

Associated Application(s): **SITE PLAN, SHORT PLAT**

Brief Description of Proposal: **158 UNIT MULTI-FAMILY DEVELOPMENT, 4 STORY, 3344 WEST BUILDING (4 BUILDINGS TOTAL) W/ARBIC ROAD THROUGH MIDDLE OF PROJECT, 4 PHASE CONSTRUCTION PROJECT.**

<b>APPLICANT NAME/CONTACT PERSON</b> (or legal representative): <b>SEAN NEGSTAD</b> <b>HAVEN DESIGN WORKSHOP</b>	<b>Address:</b> <b>907 HARBOUR AVE, SUITE 301</b> <b>BELLINGHAM, WA 98225</b>
<b>E-mail Address:</b> <b>SEAN@HAVEN-DW.COM</b>	<b>Phone and Fax:</b> <b>360-527-2840 F 527-2744</b>
<b>PROPERTY OWNER NAME</b> (list multiple owners on a separate sheet): <b>WENOMSK COURT LLC</b>	<b>Address:</b> <b>15015 MAIN ST, SUITE 203</b> <b>BELLEVUE, WA 98007</b>
<b>E-mail Address:</b>	<b>Phone and Fax:</b> <b>425-746-2313 F 425-746-6595</b>

**AUTHORIZATION:**  
The undersigned hereby certifies that this application has been made with the consent of the lawful property owner(s) and that all information submitted with this application is complete and correct. False statements, errors, and/or omissions may be sufficient cause for denial of the request.

*Sean Negstad*  
Authorized Signature

**5.22.09**  
Date

**Staff use only below this line**

Yes	No		Critical Area Report Needed?
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Wetland	_____
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Fish and Wildlife Habitat Conservation Area	_____
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Geologically Sensitive Area	_____
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Frequently Flooded Area	_____
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Critical Aquifer Recharge Area	_____

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APR 15 2010

CITY OF OAK HARBOR  
Development Services Department

DESIGN REVIEW CHECKLIST

This checklist is intended to help you, as the applicant, achieve the goals and requirements of the Design Review with the City of Oak Harbor. The checklist is a supplement to the Design Guidelines. Please refer to the Design Guidelines when completing this checklist. A completed checklist is required by the City at time of application submittal.

PROJECT INFORMATION

Project: FRANKLIN MANOR Proponent: WINDMILL COURT LLC.  
Representative: JEAN HELSTAD Location: 1215 SWANTOWN AVE.  
Comp. Plan Designation: HE DENS. RES. Zoning: R-4 MULTI-FAMILY  
Project Description: 158 UNIT MULTI-FAMILY DEVELOPMENT, 4 STORY, 33-1/2' 44' BLDG. (4 BUILDINGS) W/ PUBLIC ROAD THROUGH MIDDLE REAR, 4 PHASE CONSTRUCTION PROJECT

Site Data:  
Site Area: 242,629 SF square ft./5.57 acres Building Area: 207,292 square ft. 56,938 SF BLDG. COVERAGE  
Parking Required: 257 Parking Provided: 260

DESIGN GUIDELINES

Instructions: Not all Design Guidelines will apply to your project. Applicability is based on the zoning for the project site and the size of the project. In the space prior to the Guideline number place a check mark if it applies and an "NA" if it is not necessary for your project to meet this regulation.

I. Site Planning

A. Relationship to Street Frontage

	LA.1	CBD	Provides pedestrian oriented street frontage and amenities.
X	1.A.2	All zones except CBD & I	Provides pedestrian access and attractive street edge.

B. Side Yard Compatibility

X	1.B.1	All zones	Minimize visibility and impacts of service areas.
---	-------	-----------	---

C. Multiple Buildings/Large Lot Developments

X	1.C.1	All zones	If over 5 acres, incorporates measures to mitigate visual, access and other impacts.
X	1.C.2	All zones	Integrates the proposal into the existing area and provides pedestrian oriented focus.

D. Sitting Service Areas

X	1.D.1	All zones except CBD	Provides measures to reduce impacts of service areas and mechanical equipment.
---	-------	----------------------	--

**E. Biofiltration Swales**

	I.E.1	All zones except CBD	Integrates stormwater facilities into site layout and provides screening.
--	-------	----------------------	---

**F. Parking Area Reduction**

X	I.F.1	All zones	Features to reduce parking area.
---	-------	-----------	----------------------------------

**II. Pedestrian Access**

**A. General Pedestrian Access Requirements**

X	II.A.1	All zones	Pedestrian access provided from main street.
X	II.A.2	All zones	Pedestrian access complies with ADA requirements.
X	II.A.3	All zones	Adequate lighting for entries, walkways and parking lots.
X	II.A.4	All zones	Integrated internal pedestrian circulation provided.
X	II.A.5	All zones	Internal circulation connects to public sidewalk and adjacent developments.

**B. On-Site Pedestrian Circulation**

X	II.B.1	All zones	Paved pathway (at least 60" wide) from main entry to public sidewalks.
X	II.B.2	All zones	Provide delineated pathways through parking lots.
X	II.B.3	All zones except RO, I & PF	Provide pathways to all entries.

**C. Sidewalk Widths**

	II.C.1	CBD	Provide 12' sidewalk on pedestrian oriented streets.
X	II.C.2	All zones	Provide minimum required sidewalk width on site if ROW is not available. (Page 27 of Design Guidelines)
X	II.C.3	All zones	Provide minimum required sidewalk width on new streets (Page 28 of Design Guidelines)

**D. Pedestrian Amenities**

X	II.D.1	CBD	Provide weather protection.
X	II.D.2	CBD	Provide pedestrian friendly building façade.

**E. Pedestrian Paths to Adjacent uses and Transit Facilities**

X	II.E.1	All zones	Provide pathways to the entries to all buildings, adjacent developments, transit stops and sidewalks.
X	II.E.2	All zones	No impediments to pedestrian travel along pathways.
X	II.E.3	All zones	Provides safe and well lit pedestrian and bike paths.
X	II.E.4	All zones	Provides bike and pedestrian paths that connect to local paths and adjacent developments.
X	II.E.5	All zones	Integrates transit amenities and stops into project and adjacent site improvements.

<input checked="" type="checkbox"/>	II.E.6	All zones	Pedestrian paths from transit stops through commercial areas to residential areas within 1,200 feet.
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**F. Pedestrian Areas at Building Entries**

<input checked="" type="checkbox"/>	II.F.1	All zones	Building entries enhanced. (See page 33 Design Guidelines)
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**G. Pedestrian Activity Areas and Plazas**

<input checked="" type="checkbox"/>	II.G.1	All zones	Pedestrian oriented spaces at key locations.
-------------------------------------	--------	-----------	--

**III. Vehicular Access and Parking**

**A. Access Roads**

<input checked="" type="checkbox"/>	III.A.1	All zones except CBD	Access roads for developments with more than one street frontage.
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**B. Incentives to Reduce Number of Surface Parking**

<input checked="" type="checkbox"/>	III.B.1	All zones	Joint/shared parking provided?
-------------------------------------	---------	-----------	--------------------------------

<input type="checkbox"/>	III.B.2	All zones except I	Structure or underground parking provided?
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**C. Parking Entrances and Driveways**

<input checked="" type="checkbox"/>	III.C.1	All zones	Driveway impacts minimized?
-------------------------------------	---------	-----------	-----------------------------

**IV. Building Design**

**A. Human Scale**

<input checked="" type="checkbox"/>	IV.A.1	All zones except C-4, PBP, PIP & I	Project Incorporates human scale building elements?
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**B. Scale**

<input checked="" type="checkbox"/>	IV.B.1	All zones	Reduced building scale features provided?
-------------------------------------	--------	-----------	---

**C. Building Corners**

<input checked="" type="checkbox"/>	IV.C.1	All zones except PBP, PIP & I	Building corners accentuated at street intersections?
-------------------------------------	--------	-------------------------------	---

**D. Building Detail**

<input checked="" type="checkbox"/>	IV.D.1	CBD	Architecturally enhanced building façade.
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**E. Materials**

<input type="checkbox"/>	IV.E.1	CBD	Retain existing façade features.
--------------------------	--------	-----	----------------------------------

<input checked="" type="checkbox"/>	IV.E.2	All zones	Meets requirements for building materials? (Design guidelines, page 54)
-------------------------------------	--------	-----------	---

**F. Blank Walls**

<input checked="" type="checkbox"/>	IV.F.1	All zones except PBP, PIP & I	Are blank wall within 50' of ROW treated? <b>YES</b>
-------------------------------------	--------	-------------------------------	--

**G. Mechanical Equipment and Service Areas**

<input checked="" type="checkbox"/>	IV.G.1	All zones except I	Is equipment and services areas screened?
-------------------------------------	--------	--------------------	---

<input checked="" type="checkbox"/>	IV.G.1	All zones except I	Are utility apparatus and meters screened?
-------------------------------------	--------	--------------------	--

**V. Landscape Integration**

**A. Landscape Concept**

<input checked="" type="checkbox"/>	V.A.1	All zones	Is there an overall landscape concept?
-------------------------------------	-------	-----------	--

**B. Parking Lot Landscape**

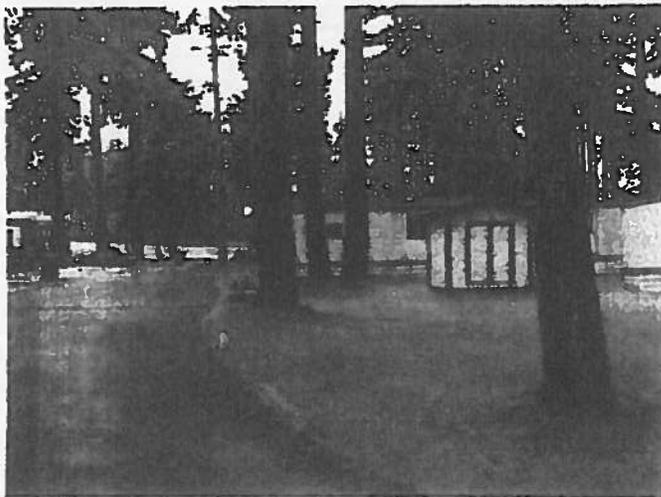
<input checked="" type="checkbox"/>	V.B.1	All zones	Landscaping used to screen and enhance parking areas?
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**C. Retention of Significant Trees**

<input checked="" type="checkbox"/>	V.C.1	All zones	Significant trees retained?
-------------------------------------	-------	-----------	-----------------------------

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**CRITICAL AREAS REVIEW  
FOR  
1215 SWANTOWN AVE  
OAK HARBOR, WA**



**Prepared for:**

**Credo Construction, Inc.  
Bellingham, WA  
360-647-1904**

**Prepared by:**

**Northwest Wetlands Consulting, LLC  
1214 Xenia Street  
Bellingham, WA 98229  
360-510-1605**

**JUNE 2006**

**RECEIVED**  
**APR 15 2010**  
**CITY OF OAK HARBOR**  
**Development Services Department**

## I. SUMMARY

A site review was conducted at 1214 Swantown Ave, Oak Harbor, Island County, Washington on June 15, 2006 for feasibility and review of critical areas in the preplanning stages for development of a condominium project at this site. This report is prepared at the request of the applicant, Credo Construction, Inc. The review is conducted by Katrina Jackson of Northwest Wetlands Consulting.

## II. SITE DESCRIPTION

Parcel #: R13203-110-1730

Key: 484390

Acreage: 5.58 acres irregular shaped parcel

Topography: Gently sloped. Elevation range approximately 135-140 feet. Not indicated on City Critical Area Slope mapping.

Current Land Use: Windmill Court Mobile Home Park

Setting: Urbanized

## III. ENVIRONMENT

No locally listed species of importance, endangered, threatened, sensitive, candidate species listed by WDFW could be found on this site. Neither rare plant species nor high quality ecosystems listed by Washington State Department of Ecology in the Natural Heritage Program under Ch 79.70RCW are indicated. No State Priority Habitat as identified by WDFW is indicated on this site.

Soils: Sand and gravelly loam textures are indicated by the NRCS mapping survey as Hf—Hoypus gravelly loamy sand, 5 to 15 percent slopes.

Wb—Whidbey Island gravelly sandy loam, 5 to 15 percent slopes.

Wetlands: None indicated on site by visual reconnaissance. USGS topographic survey indicates Waterloo Marsh is approximately 0.85 miles southwest of the site. National Wetland Inventory does not indicate any wetlands within close proximity to the site.

Shoreline: The shoreline of Oak Harbor is indicated approximately 0.75 southeast of the site. Site is divided from shoreline and shoreline buffers by almost fully development commercial and residential land use and paved roads.

Vegetation: Douglas fir trees (pruned for light and view), lawn grass, and ornamental shrubs around mobiles. A small wooded triangular area is indicated to the north offsite. All other surrounding areas appear fully developed.

No Garry Oak (*Quercus garryana*) stands or individuals could be found on the site.

Wildlife: Urban birds and small mammals adapted to urbanized environment likely.

Critical Areas Buffer: By review of site and areas in close proximity of site based upon visual observation, wetland mapping provided by the City of Oak Harbor, NWI, Department of Natural Resources stream mapping, Island County Shoreline Mapping system we conclude that no regulated stream, shoreline, or wetland buffers encroach into this site.

**Other Aquatic Resources:** No regulated lakes or ponds are indicated on this site or in close proximity. Site is not within 300' of a stream or Marine Fish and Wildlife Habitat Conservation Area.

#### IV. REGULATORY ISSUES

City of Oak Harbor Municipal Code indicates that an environment checklist may be required, except a checklist is not needed if the city and applicant agree an EIS (Environment Impact Statement), SEPA compliance has been completed, or SEPA compliance has been initiated by another agency. City of Oak Harbor is the lead agency for SEPA review for this site.

City may require a Fish and Habitat review for this property unless City has adequate information about surrounding recently developed areas to determine status for this property. If a review is required, City will inform the applicant as a result of the pre-application meeting along with any other critical areas requirements.

Critical Areas Mapping Review conducted June 19, 2006 by phone conversation with City Planning shows that this site has no locally mapped wetlands, is not within a high Aquifer Recharge Area, is not indicated for steep slopes, and no fish bearing streams are indicated on site.

The City of Oak Harbor Municipal Code 20.28.020 states that any trees that are 12" or more in diameter measured four feet above existing grade shall be located by survey. The provision in the code states that 15 percent of "significant trees" shall remain on site. These trees may be included within the open space requirement or left remaining in any location on the site for compliance.

#### V. CONCLUSION

Local jurisdictional information available at the time of this study provided by City Planning CAO mapping and resources provided by federal or state agencies related to critical areas do not indicate that any critical areas exist on this site. If required further review of habitat of eagles within 800 feet of the site or great blue heron within 1000 feet of the site may be conducted. Due to the highly urbanized setting the results will most likely produce no significant issues for development of this property based upon habitat.

#### LIMITATIONS

This report is based upon information collected in the field and obtained from manuals and publications produced by Federal, State, and Local agencies pertaining to the process of wetland delineation and is a preliminary review. Conclusions are the professional opinion of the authors subject to approval by appropriate agencies. Agencies may require additional habitat information as part of the permit approval process.

**20.28.020 Critical areas report.**

All single-family residential development within 100 feet of a designated geologically sensitive area and all commercial, industrial, or multifamily developments within 200 feet of a designated geologically sensitive area shall be considered "adjacent" to the geologically sensitive area and required to submit a critical areas report, as described in this section. The director shall approve the critical areas report only if it demonstrates that the proposed development will not increase the risk of harm to public safety or neighboring properties or critical areas. To determine if a critical areas report is required on slopes between 15 and 39 percent, the director may require the applicant to provide a letter prepared by a certified geologist or engineer that determines whether springs or ground water seepage is present on the subject slope.

(1) **Geotechnical Analysis.** Except as provided in subsections (2) and (3) of this section, all development proposals within or adjacent to a designated geologically sensitive area shall submit a site assessment, geotechnical report, grading and erosion control plan and landscape/revegetation plan. This analysis shall contain the following information:

(a) **Site Assessment.** Along with the standard site plan requirements, the following information shall be provided for the subject property, prepared by a licensed land surveyor:

(i) **Topography map at two-foot contour intervals for the entire site, including abutting public rights-of-way, private roads, or access easements;**

(ii) **Location of all significant trees;**

(iii) **Location of all manmade drainage structures or features including pipes, drains, catch basins, drainage structures, culverts, and underdrain pipes;**

(iv) **Location of all frequently flooded areas, as defined in Chapter 17.04, OHMC, and all other critical areas, as defined in this title, including: oak trees, wetlands, fish and wildlife habitat conservation areas, critical aquifer recharge areas, and geologically sensitive areas;**

(v) **Location of all existing site improvements and the amount of existing impervious surface area; and**

(vi) **Location of all utilities, both above and below ground.**

The site plan shall also include a vicinity map, showing the location of the property in relationship to surrounding lots and other critical areas

**20.02.020 Definitions**

59) **"Significant tree"** means a healthy evergreen or deciduous tree 12 inches or more in diameter measured four feet above existing grade.

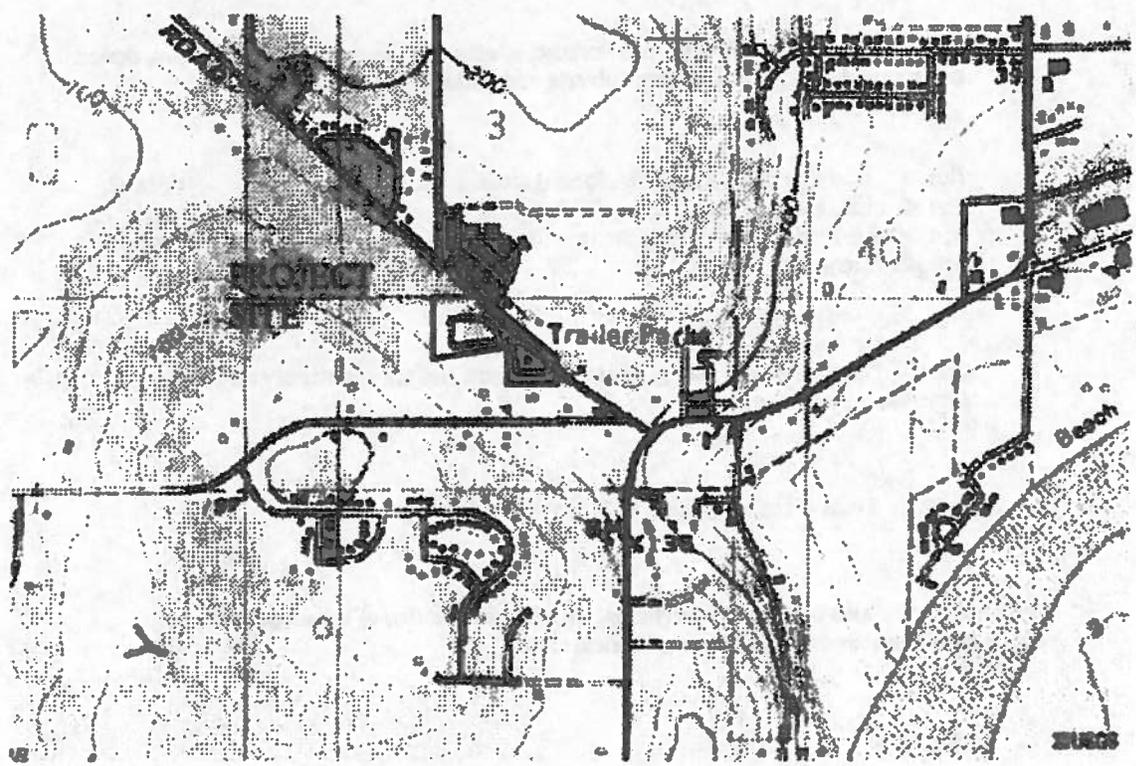
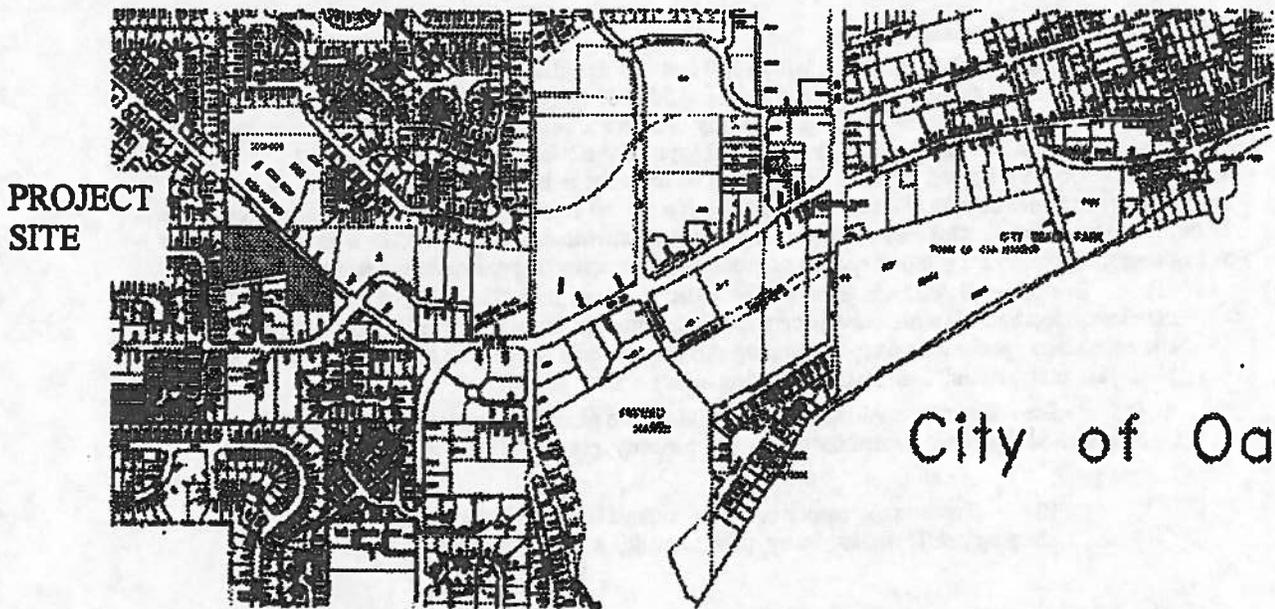
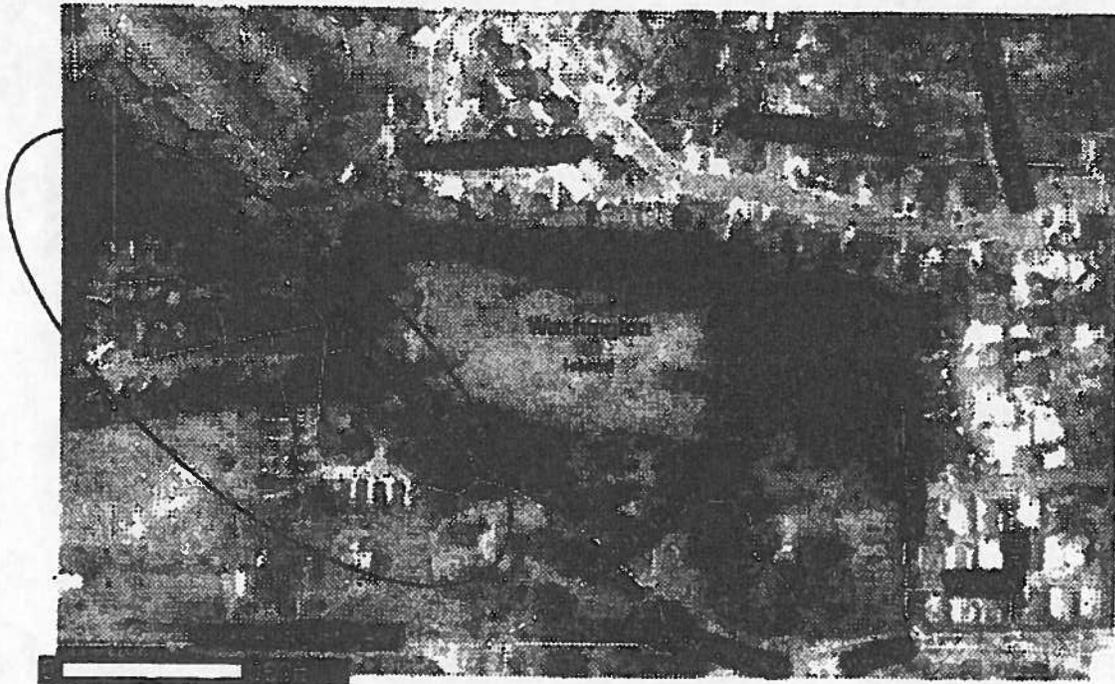


Figure 2. USGS TOPO — 1215 Swantown Ave. Oak Harbor, WA

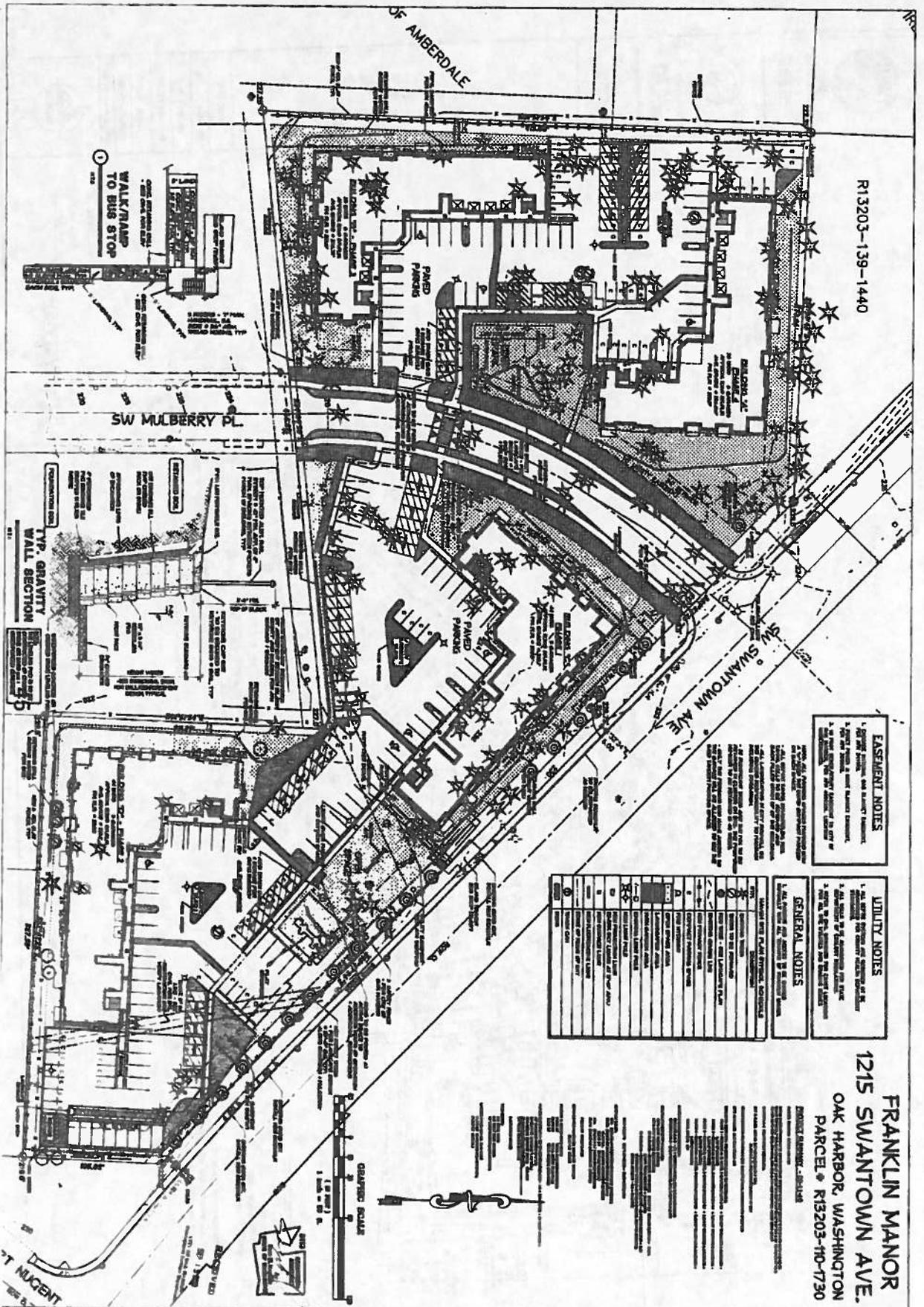


Map Unit Symbol	Map Unit Name
Hf	Hoyas gravelly loamy sand, 5 to 15 percent slopes
Wb	Windbey gravelly sandy loam, 5 to 15 percent slopes

Figure 3. NRCS SOILS SURVEY —1215 Swantown Ave. Oak Harbor, WA



Figure 4 NATIONAL WETLAND INVENTORY —1215 Swantown Ave. Oak Harbor, WA



R13203-139-1440

**EASIMENT NOTES**

1. SEE THE RECORD PLANS FOR THE LOCATION OF THE EASIMENTS.
2. THE EASIMENTS ARE SHOWN BY THE DASHED LINES.
3. THE EASIMENTS ARE TO BE MAINTAINED AS SHOWN.
4. THE EASIMENTS ARE TO BE MAINTAINED AS SHOWN.

**UTILITY NOTES**

1. SEE THE RECORD PLANS FOR THE LOCATION OF THE UTILITIES.
2. THE UTILITIES ARE SHOWN BY THE DASHED LINES.
3. THE UTILITIES ARE TO BE MAINTAINED AS SHOWN.
4. THE UTILITIES ARE TO BE MAINTAINED AS SHOWN.

**GENERAL NOTES**

1. ALL WORK IS TO BE ACCORDING TO THE RECORD PLANS.
2. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS.
3. THE CONTRACTOR SHALL MAINTAIN ACCESS TO ALL ADJACENT PROPERTIES AT ALL TIMES.
4. THE CONTRACTOR SHALL MAINTAIN ACCESS TO ALL ADJACENT PROPERTIES AT ALL TIMES.
5. THE CONTRACTOR SHALL MAINTAIN ACCESS TO ALL ADJACENT PROPERTIES AT ALL TIMES.
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10. THE CONTRACTOR SHALL MAINTAIN ACCESS TO ALL ADJACENT PROPERTIES AT ALL TIMES.

**FRANKLIN MANOR**  
**1215 SWANTOWN AVE.**  
**OAK HARBOR, WASHINGTON**  
**PARCEL # R13203-139-1440**

**FRANKLIN MANOR**  
**OPEN SPACE, TREE, LIGHTING & LANDSCAPE PLAN**

**LEGEND**

- PLANTING
- LIGHTING
- OPEN SPACE
- LANDSCAPE

SP2  
 EXHIBIT 4



Franklin Manor  
1215 Swanton Ave.  
Oak Harbor, WA 98277  
206-716-8119

Paul Grogan  
Landscape Architect

Franklin Manor  
1215 Swanton Ave.  
Oak Harbor, WA

REVISIONS

December 23, 2008	
January 2, 2007	
September 28, 2007	
August 18, 2010	
September 13, 2010	
DATE: October 23, 2008	



L-1 EXHIBIT 5

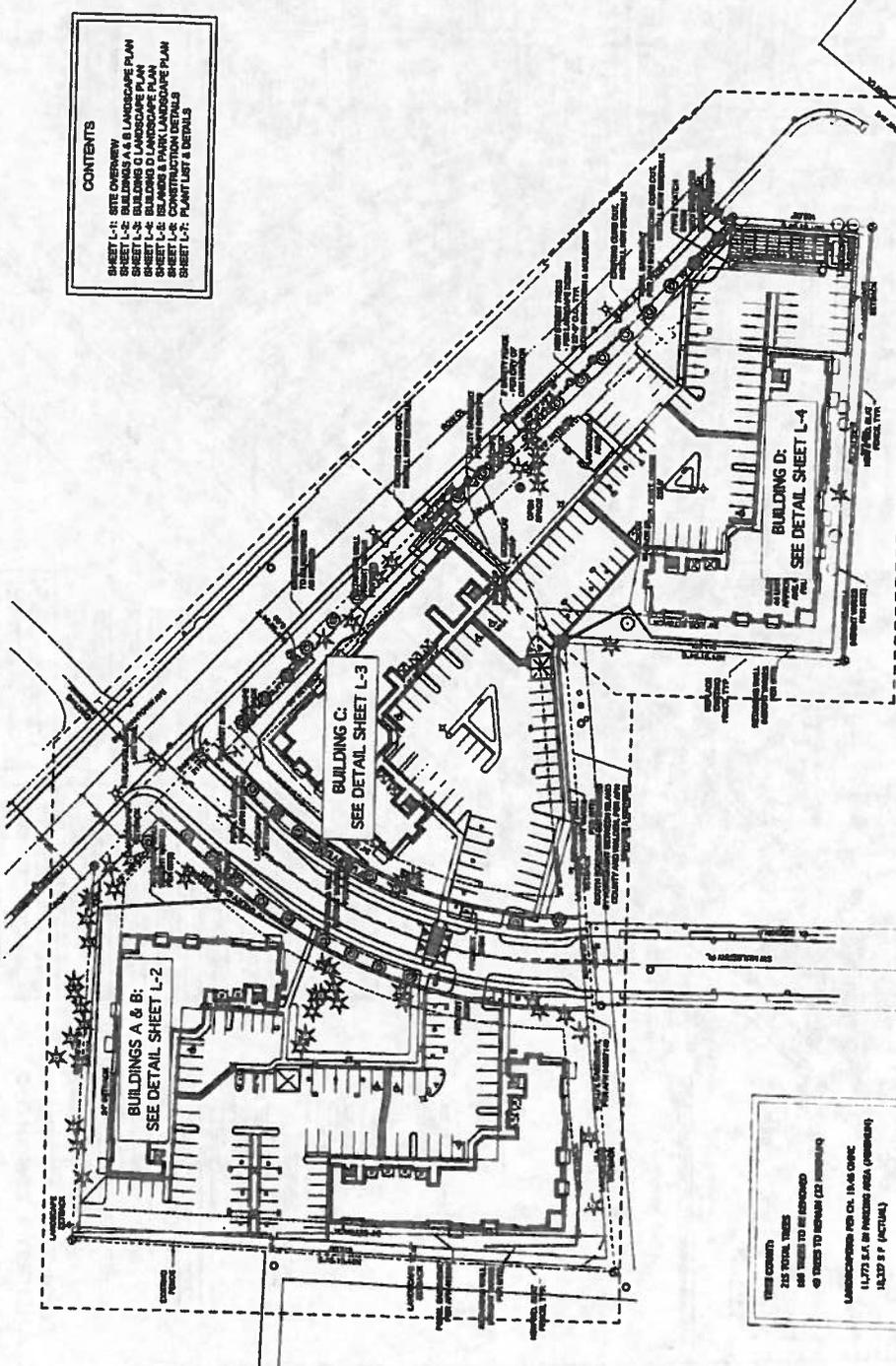
CONTENTS

- SHEET L-1: SITE OVERVIEW
- SHEET L-2: BUILDINGS A & B LANDSCAPE PLAN
- SHEET L-3: BUILDING C LANDSCAPE PLAN
- SHEET L-4: BUILDING D LANDSCAPE PLAN
- SHEET L-5: ISLANDS & PARK LANDSCAPE PLAN
- SHEET L-6: CONSTRUCTION DETAILS
- SHEET L-7: PLANT LIST & DETAILS

RECEIVED  
SEP 1 2008  
CITY OF OAK HARBOR

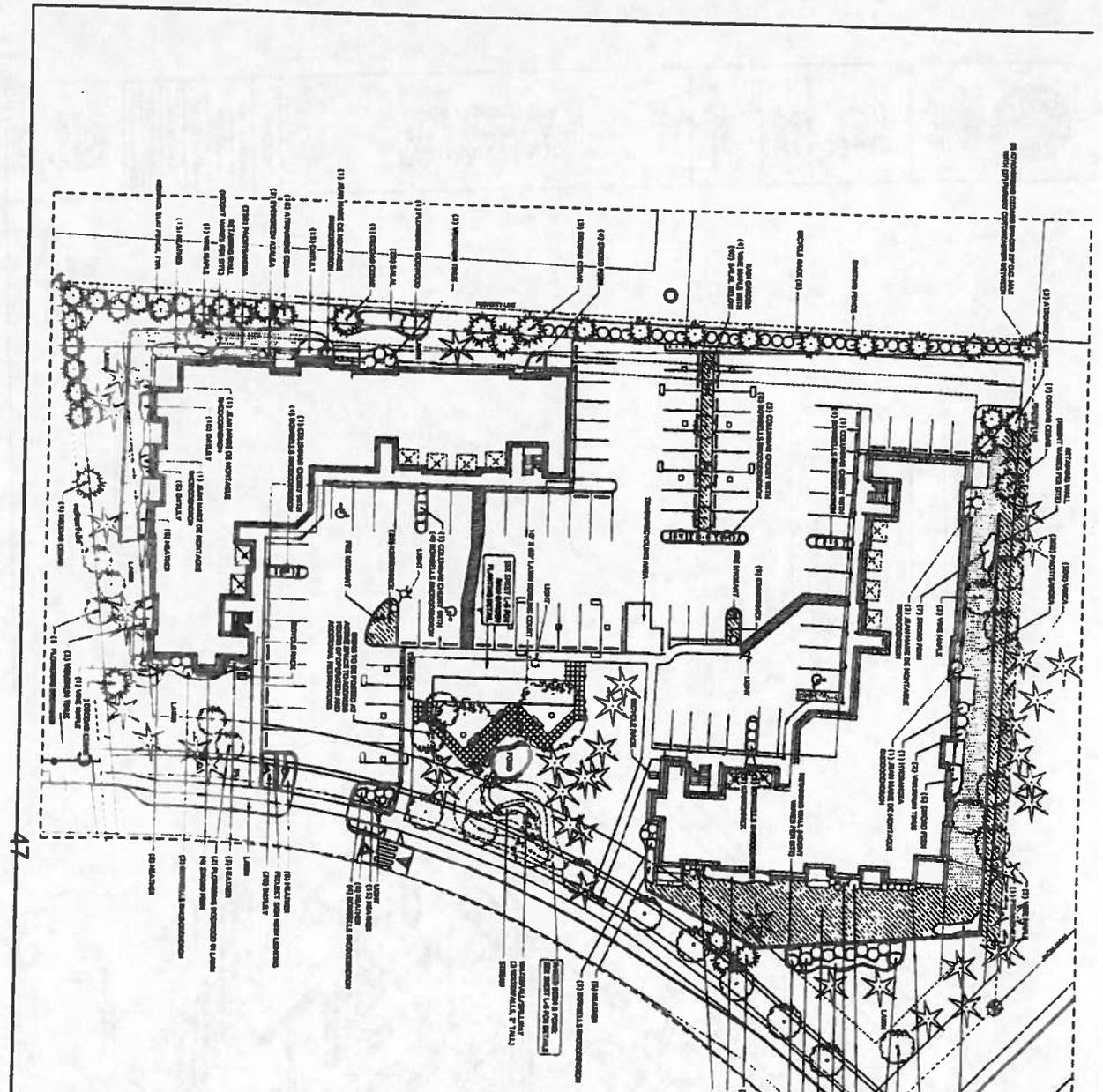
Site Overview  
Scale: 1" = 40'-0"

46



TREE COUNT  
245 TOTAL TREES  
646 TREES TO BE REMOVED  
41 TREES TO REMAIN (27 PLANTING)  
LANDSCAPE PER CH. 11A-6 ORFC  
11,771 S.F. OF FINISHED AREA (PROPOSED)  
18,337 S.F. (ACTUAL)

115



**Buildings A & B Landscape Plan**  
 Scale: 1" = 30'-0"



All Landscaping materials listed herein are available in the Pacific Northwest region. All Landscaping materials listed herein are available in the Pacific Northwest region. All Landscaping materials listed herein are available in the Pacific Northwest region.

RECEIVED  
 SEP 11 2010  
 CITY OF OAK HARBOR

	<b>Franklin Manor</b> 1215 Swantown Ave. Oak Harbor, WA
	P.O. Box 1000 Oak Harbor, WA 98281-1000 Phone: 360-833-1118
	Paul Grogan Landscape Architect
	REVISIONS
	DATE: October 26, 2008

L-2  
 EXHIBITS

116



Franklin Manor  
 1215 Swantown Ave.  
 Oak Harbor, WA  
 98281-2118

Franklin Manor  
 1215 Swantown Ave.  
 Oak Harbor, WA

REVISIONS
December 20, 2008
January 2, 2007
September 28, 2007
August 18, 2010
September 13, 2010
DATE: October 23, 2008



L-3

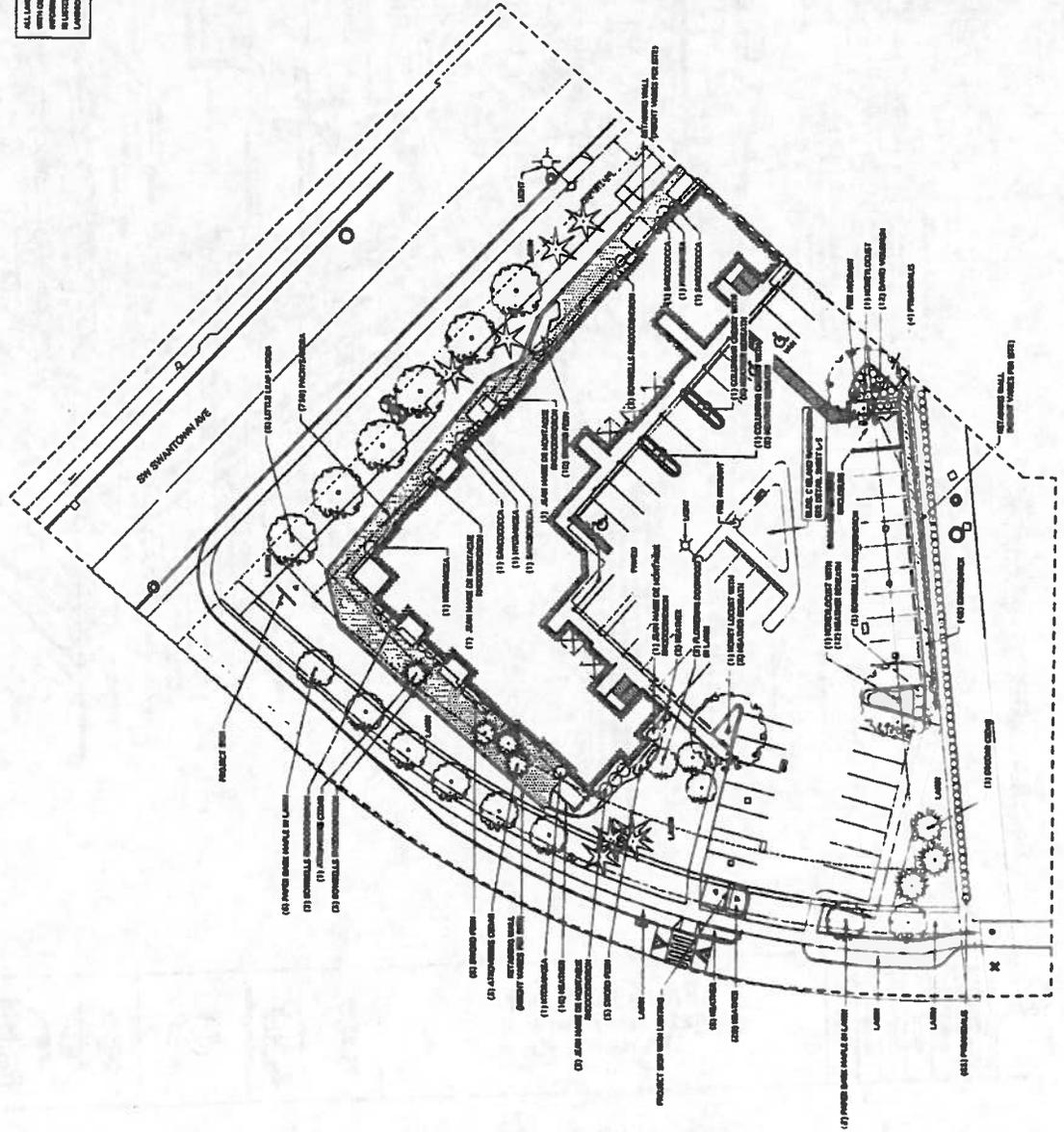
EXHIBIT 5

ALL LANDSCAPE SYMBOLS HAVE BEEN DEVELOPED THROUGH VISUALITY ON AN INDIVIDUAL BASIS. LANDSCAPE SYMBOLS ARE NOT TO BE USED TO REPRESENT ANY SPECIFIC TREE OR PLANT SPECIES. LANDSCAPE SYMBOLS ARE NOT TO BE USED TO REPRESENT ANY SPECIFIC TREE OR PLANT SPECIES. LANDSCAPE SYMBOLS ARE NOT TO BE USED TO REPRESENT ANY SPECIFIC TREE OR PLANT SPECIES.



**Building C Landscape Plan**  
 Scale: 1" = 20'-0"

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 SEP 13 2008  
 CITY OF OAK HARBOR



117



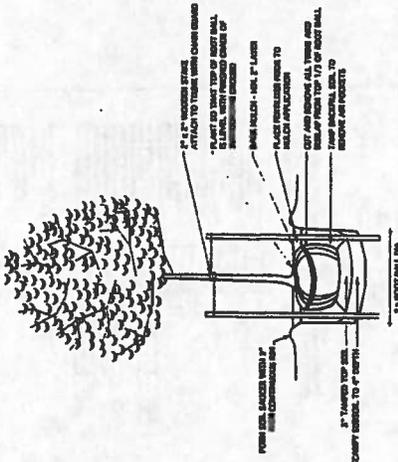




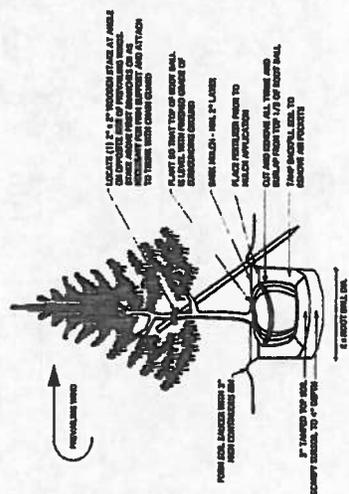


PLANT LIST

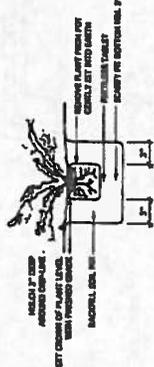
QTY.	SCIENTIFIC NAME	COMMON NAME	FILE #
1	...	...	...
2	...	...	...
3	...	...	...
4	...	...	...
5	...	...	...
6	...	...	...
7	...	...	...
8	...	...	...
9	...	...	...
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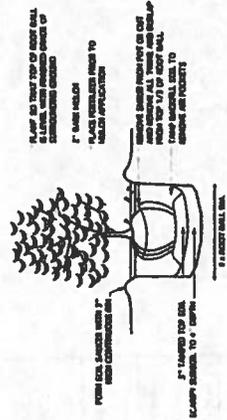
DECIDUOUS TREE PLANTING DETAIL



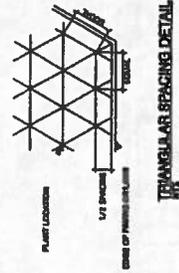
EVERGREEN TREE PLANTING DETAIL



GROUND COVER PLANTING DETAIL



SHRUB PLANTING DETAIL



TRIANGULAR SPACING DETAIL

**NOTE FOR CONTRACTORS:**  
 ALL PLANT MATERIAL MUST CONFORM TO ARLA (ARIZONA RESIDENTIAL AND LANDSCAPE ASSOCIATION) STANDARDS FOR PLANT MATERIAL AND ALL PLANTS MUST BE SUPPLIED BY A REPUTABLE NURSERY. ALL PLANTS MUST BE SUPPLIED WITH A GUARANTEE OF ONE YEAR. THE LANDSCAPE CONTRACTOR SHALL BE RESPONSIBLE FOR THE MAINTENANCE OF THE LANDSCAPE MATERIALS THROUGHOUT THE PROJECT.

**TREE ROOT BARRIER NOTES:**  
 ALL TREE BARRIERS SHALL BE INSTALLED AT THE TIME OF PLANTING AND SHALL BE SUBJECT TO INSPECTION AND APPROVAL BY THE ARCHITECT. THE BARRIER SHALL BE INSTALLED AT THE TIME OF PLANTING AND SHALL BE SUBJECT TO INSPECTION AND APPROVAL BY THE ARCHITECT.

**IRRIGATION NOTES:**  
 A 1\"/>

RECEIVED  
 SEP 13 2007

Plant List & Details  
 Scale: As Indicated

Franklin Manor  
 1215 Swanton Ave.  
 Oak Harbor, WA

REVISIONS

December 20, 2006
January 2, 2007
September 20, 2007
August 12, 2010
September 12, 2010
DATE October 25, 2008

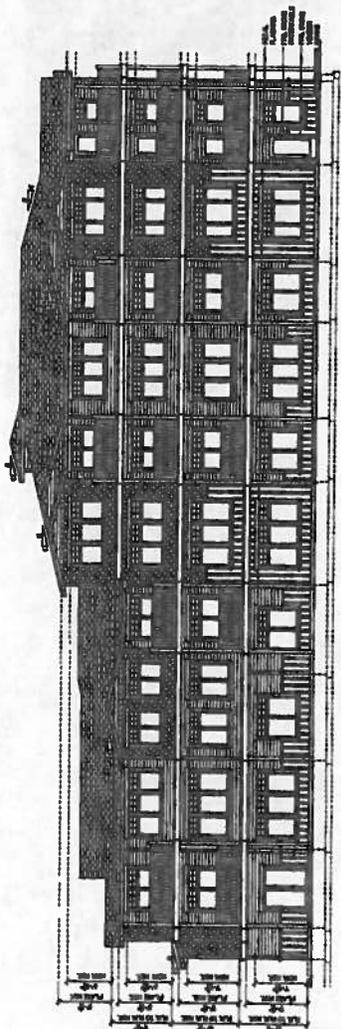


Creative Design Group  
 P.O. Box 6908  
 Burien, WA 98148  
 206-748-9115

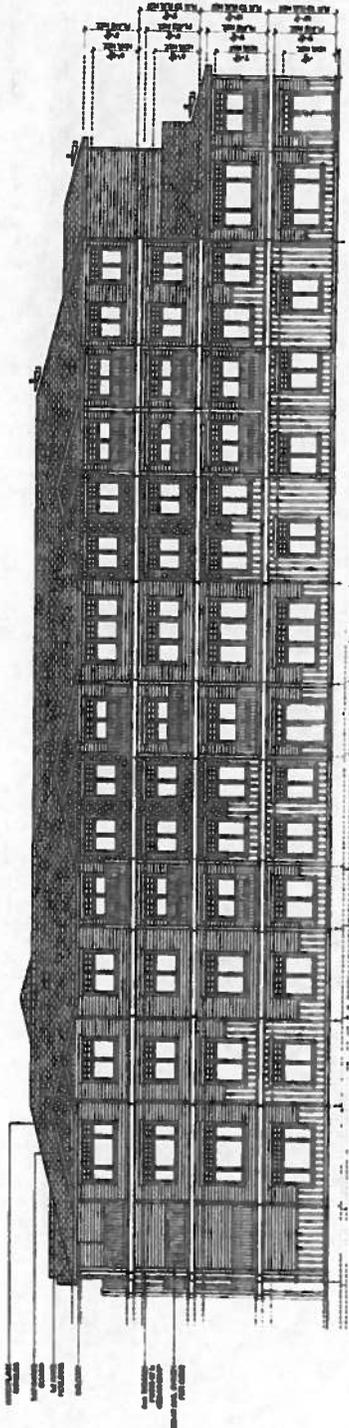
Paul Chang  
 Landscape Architect

121



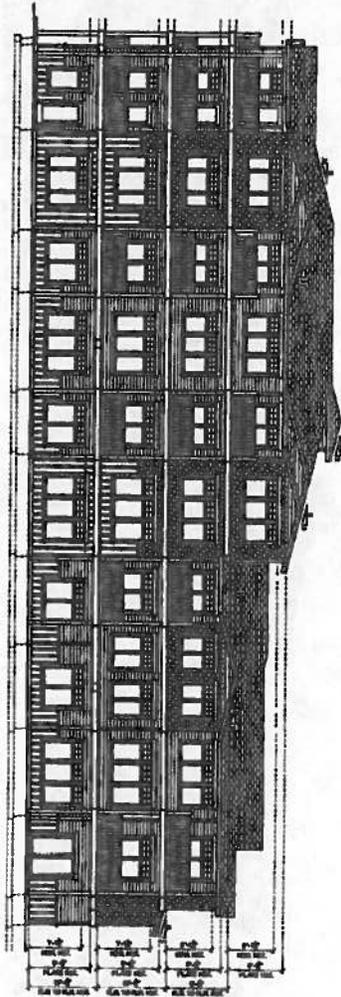


**RIGHT ELEVATION**  
 SCALE: 1/8" = 1'-0"

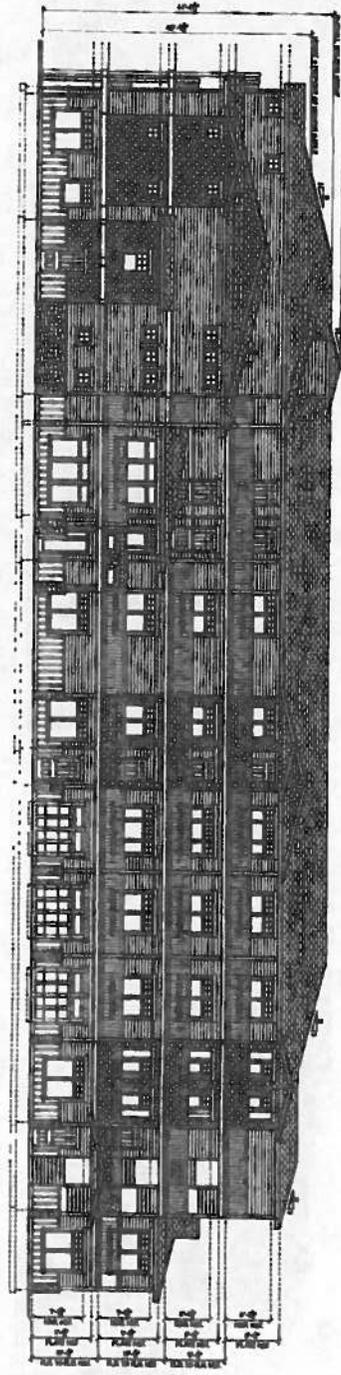


**REAR ELEVATION**  
 SCALE: 1/8" = 1'-0"

RECEIVED  
 APR 11 2010  
 10:00 AM  
 CITY OF OAK HARBOR  
 1000 N. 10TH ST.  
 SUITE 100  
 MILWAUKEE, WI 53233



**LEFT ELEVATION**  
SCALE 1/8" = 1'-0"



**FRONT ELEVATION**  
SCALE 1/8" = 1'-0"

55

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MAY 11 1988  
ARCHITECTURAL DEPARTMENT



EXHIBIT 6

A1  
99

PROJECT  
DATE  
DRAWN BY  
CHECKED BY



**FRANKLIN MANOR - BLDG. B**  
**EXT. ELEVATIONS**

OAK HARBOR, WA



124

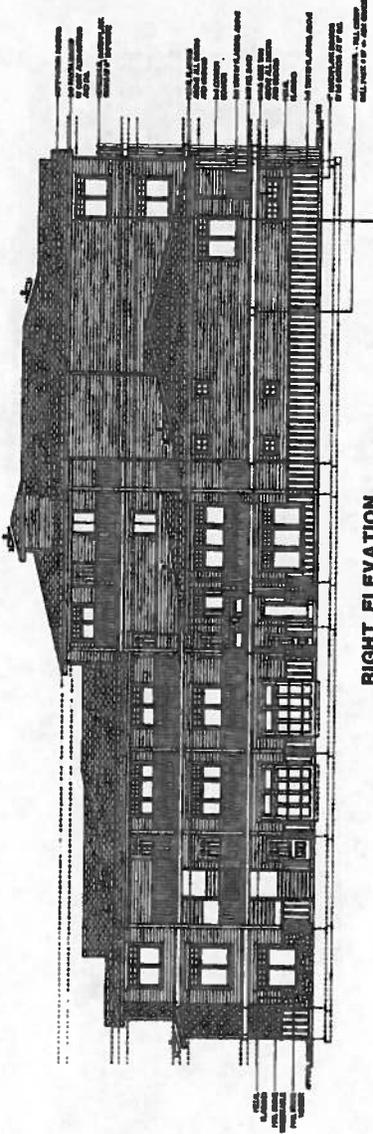

 ZM > I  
 ARCHITECTS  
 1000 1st Ave  
 Seattle, WA 98101  
 TEL: 206.461.1111  
 FAX: 206.461.1112  
 WWW.ZMARCHITECTS.COM

FRANKLIN MANOR - BLDG. B  
 EXT. ELEVATIONS  
 OAK HARBOR, WA

1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31	32	33	34	35	36	37	38	39	40	41	42	43	44	45	46	47	48	49	50	51	52	53	54	55	56	57	58	59	60	61	62	63	64	65	66	67	68	69	70	71	72	73	74	75	76	77	78	79	80	81	82	83	84	85	86	87	88	89	90	91	92	93	94	95	96	97	98	99	100
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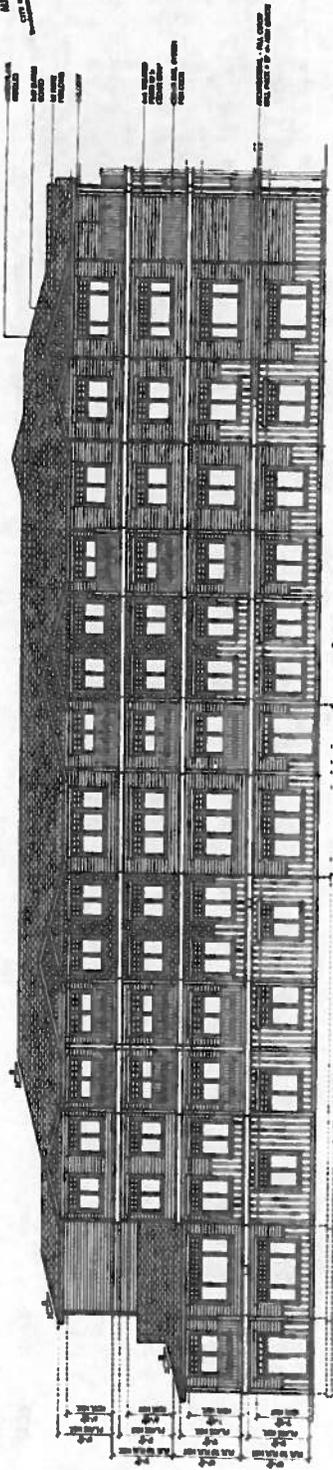
A2  
 2. 2/28/2013

EXHIBIT 6



**RIGHT ELEVATION**  
 SCALE: 1/8" = 1'-0"

RECEIVED  
 APR 11 2013  
 CITY OF OAK HARBOR



**REAR ELEVATION**  
 SCALE: 1/8" = 1'-0"

RECEIVED

JUN 3 0 2000

CITY OF OAK HARBOR  
Development Services Department



124

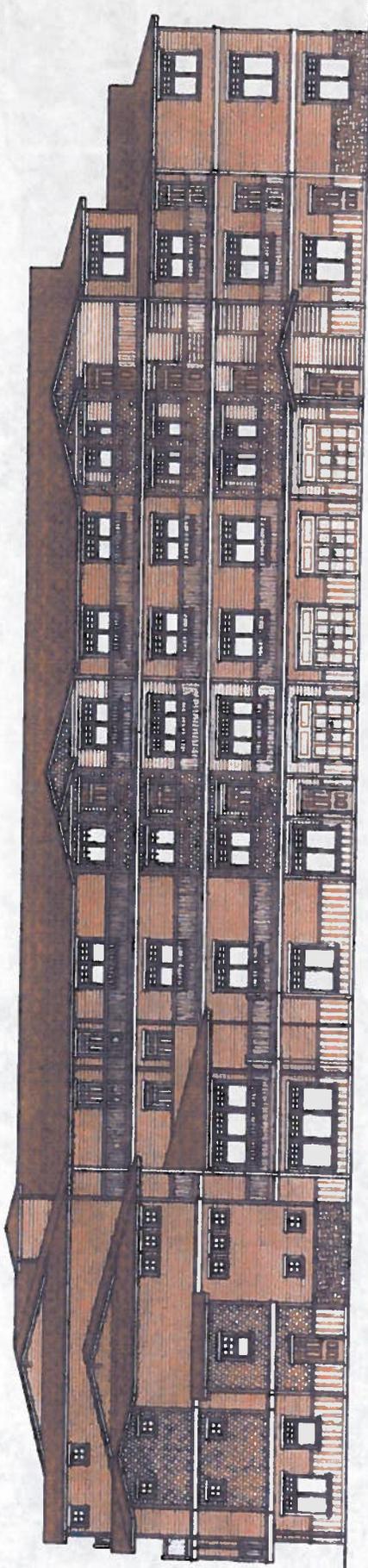
57

EXHIBIT 6

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**FRONT ELEVATION**



**OPTION 4**

Body 1: Warm Stone SW 7032

Body 2: Basket Beige SW 6143

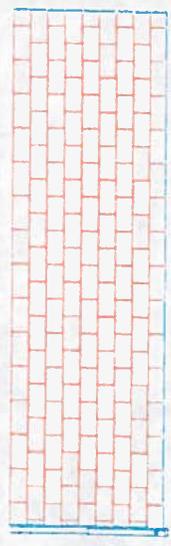
Trim: Pure White SW 7005

The digital image approximates color as closely as possible the actual paint colors.

127

IRASHI ENCLOSURE  
DOOR HANDWARD  
TO BE ACCESSIBLE

GATE(S) SHALL BE ABLE TO OPEN TO BOTH  
LEFT AND RIGHT IN ORDER TO PERMIT THE  
OPEN PIT HOOD AND 1/4" DIA. ROD OR  
INTERACT ON ANY LOCATION. MUST  
ATTACH TO CURB WALL AT POST LOCATIONS.

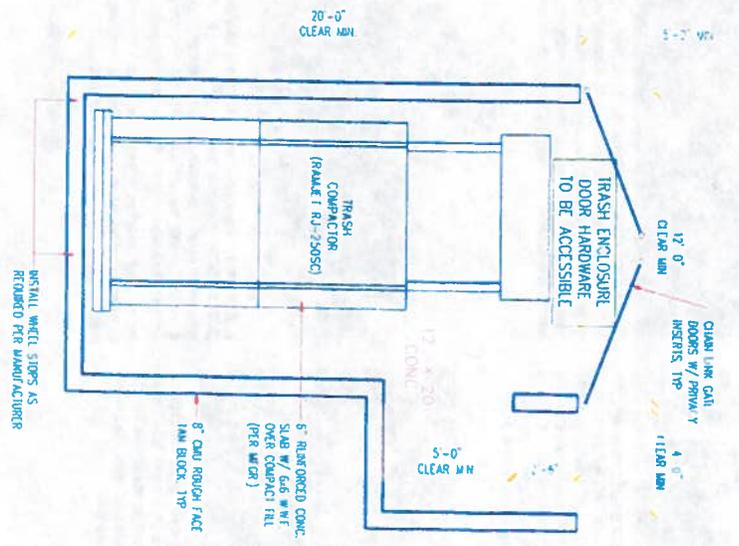


- NOTES:
1. WALL TO BE 6" THICK, 3000 PSI, REINFORCED CONCRETE.
  2. CONTAINER WALLS, 3' CLEAR YARDS OR MORE, HAVING NO OPENING SHALL ABUT A NON-COMBUSTIBLE WALL. CONTAINER WALLS WHICH ARE 3' CLEAR YARDS OR MORE, WITH UNPROTECTED OPENINGS, SHALL BE A DISTANCE OF 5'-0" FROM ANY COMBUSTIBLE WALL.
  3. THE GATE POST SHALL BE SET FROM WITH ADEQUATE STRENGTH TO SUPPORT THE ENTIRE LOAD OF THE GATE WITH A BACK WIND OF 80 M.P.H. THE GATE(S) WILL BE EQUIPPED WITH THE APPROPRIATE MEANS TO HOLD GATE(S) OPEN AND CLOSED.
  4. THERE SHALL BE NO OBSTACLES OR RESTRICTIONS TO THE GATE(S) BEING OPENED OR CLOSED FROM THE APPROACH BY NO MORE THAN 25" IN ANY DIRECTION. THE 7'60" SHALL BE UP TO 6" HIGHER THAN THE APPROACH, BUT NOT LOWER THAN THE APPROACH.
  5. GATES SHOULD OPEN AND DEPARTS FROM CLOSED POSITION.
  6. GATE STOPS TO BE 3/4" DIA. STEEL BAR STOPS IN 2 SLOTS (1.25" DIA.) MOUNTED TO GATE FRAME. WIND ON AND WIND SHUT BETWEEN SLOTS. REST SHUT ON FRAME SO ONLY 1/4" CAN BE PASSED AND TURNED 1/4" TURN TO REST WALL. GATE IS WOUND STOPS SHOULD BEOP AND 1.5" DIA. HOLES DRILLED THROUGH PAVEMENT INTO FRENCH DRAIN LAYER FOR DRAINAGE.

CLOSED POSITION, WITH CURB  
DO NOT DROPPED INTO  
CALCULATED LINED HOLE



OPEN POSITION WITH BOLLARD  
RAISED AND TURN 90°  
AND "X" RESTS ON "B"  
WHILE GATE IS SHOWN.



# RJ-250 SC

Self-Contained Compactor  
with 15 to 39 Cubic Yard  
Capacity Container



### RJ-250SC Features

- Great for high liquid waste
- Large 40 1/2" x 56" Feed Opening
- Full Door Seal with "r" Seal
- Bubble Gels with Auto Retract and Double-Hinge Door
- Quick Clear™ Tank
- CYCON Life-Xtender™ Cyclic Control System
- Signature Series Warranty
- Unit is UL Listed

EXHIBIT 7

## RJ-250SC SERIES



Medical centers generally require a high degree of security and sanitation. The RJ-250SC provides both. Waste is safely stored out of reach of scavengers. Sanitary conditions are enhanced even further with the Marathon Ozone Odor Control System which destroys odor-producing bacteria by molecular reaction! At this medical center installation, central board is the main material processed for the purpose of recycling with a customised dock application and a 48 gallon cart dumper system installed.



This RJ-250SC, located at a hospital, is fed by a typer on the dock and a conveyor system. The conveyor directs shredded "red bag" waste from a Marathon medical waste handling system. The self-contained compactor effectively solves spillage and leakage problems associated with conventional stationary compactors and containers.



Selected to handle large volumes of office waste and food waste from a cafeteria, the RJ-250SC complements this large, downtown building which houses the corporate headquarters of a major department store. The "through-the-air" chute allows the compactor to be located from a second floor location providing both convenience and security.



Equipped with an integral ground level cart dumper system, the RJ-250SC is ideal for spreading throughout complexes, shopping centers, parks, resorts and other applications where a vertical disposal system is needed. "Through-the-air" carts can be located in convenient locations throughout the facility and particularly toward the compactor.

The compactor can automatically retract when cart is being filled so that the full capacity of charge box is available for trash being dumped. Folds remain in "full dump" position for removal to and from landfill.

Authorized Distributor.

**RJ-250SC**  
RENTAL & LEASING PROGRAMS AVAILABLE

Visit our web site: [www.MarathonEquipment.com](http://www.MarathonEquipment.com)

MARATHON EQUIPMENT COMPANY  
P.O. Box 1178 • Verona, NJ 08841-1178 USA • (201) 964-6100 Fax (201) 964-7250 • 448-633-8794  
130 Hwy. 209 • Irvington, NY 10937 USA • (773) 463-6333 Fax (773) 463-6331 • 448-633-8794  
1902 Industrial Park Rd. • Charlotte, NC 28203 USA • (314) 761-0200 Fax (314) 761-2072 • 448-633-7000



Picture is for reference only. Specifications are subject to change without notice in order to accommodate improvements in the product. Capacity is determined with 100% moisture content. All figures are in accordance with ISO standards. Compactor Capacity Program. Product used in tests with 100% moisture. All figures are in accordance with ISO standards.



60

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888.447.2401

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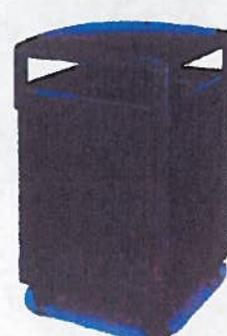
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- Trash Receptacles & Ash Urns ▶
- Umbrellas ▶
- Windscreen ▶

Search Keyword Item # Find

Home Trash Receptacles & Ash Urns Outdoor Trash Receptacles Coated Metal Trash Receptacles



Click for larger picture  
Image Disclaimer  
Please confirm image matches product description

**38-Gal. Dimension 500 Series Square Hinged Covered Top Heavy Gauge Steel Trash Receptacle with Liner -26"L x 26"W x 40"H**  
Made of heavy-gauge hot-dipped galvanized steel, this receptacle is powder coated to withstand years of exposure to the elements. Curved top allows water to run off.

5" H x 21-3/4"W disposal openings with 3" chutes encourage the insertion of liner. Rigid Plastic liner included. Two 12-gauge steel hinges are attached to the top of the body, which allows the top to open approx. 60°, permitting easy removal of the liner.

Four 12-gauge galvanized steel legs hold the receptacle 4" off the ground. Screw-in leg levelers accommodate for uneven surfaces. A built-in anchoring system (requires separate anchor kit) assists in secure placement.

Black Uni-Koat (powder coated) finish. Receptacle with black painted panels available, see item 144-1881

Item #: 144-1868  
Weight: 102 LB  
Dimensions: 26" Sq. X 40"H  
Warranty: 2 Year Limited Warranty



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Printable Version

Our Price

\$719.00 / Each

Qty. 1 Estimate freight

Bulk Inquiry

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Buy More and Save!

Quantity discounts are applied in your cart. For larger orders, click on Bulk Inquiry above or call 1-888-447-2401

Price	Qty
\$719.00 Each	1-2
\$704.62 Each	3-5
\$693.84 Each	6-9
\$683.05 Each	10+

Recently Recommended



144-1813  
26-Gal. Aspen Series Square Hinged Covered Top Heavy Gauge Steel Receptacle  
More Info  
\$756.00



144-1814  
48-Gal. Aspen Series Square Hinged Covered Top Heavy Gauge Steel Receptacle  
More Info  
\$932.00

Frequently Bought Together



144-1881  
Anchoring Kits for Receptacles  
More Info  
\$21.00



144-1889  
38-Gal. Right Plastic Replacement Liner - 21 7/8" Sq. x 24 2/8" H  
More Info  
\$78.00

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Specially Recommended



144-1813  
26-Gal. Aspen Series Square Hinged Covered



144-1814  
48-Gal. Aspen Series Square Hinged Covered



144-1863  
38-Gal. Aspen Series Square Covered Top Heavy Gauge Steel

62  
131

WO# 6430

Artwork provided as is

Credo Const.—Franklin Manor

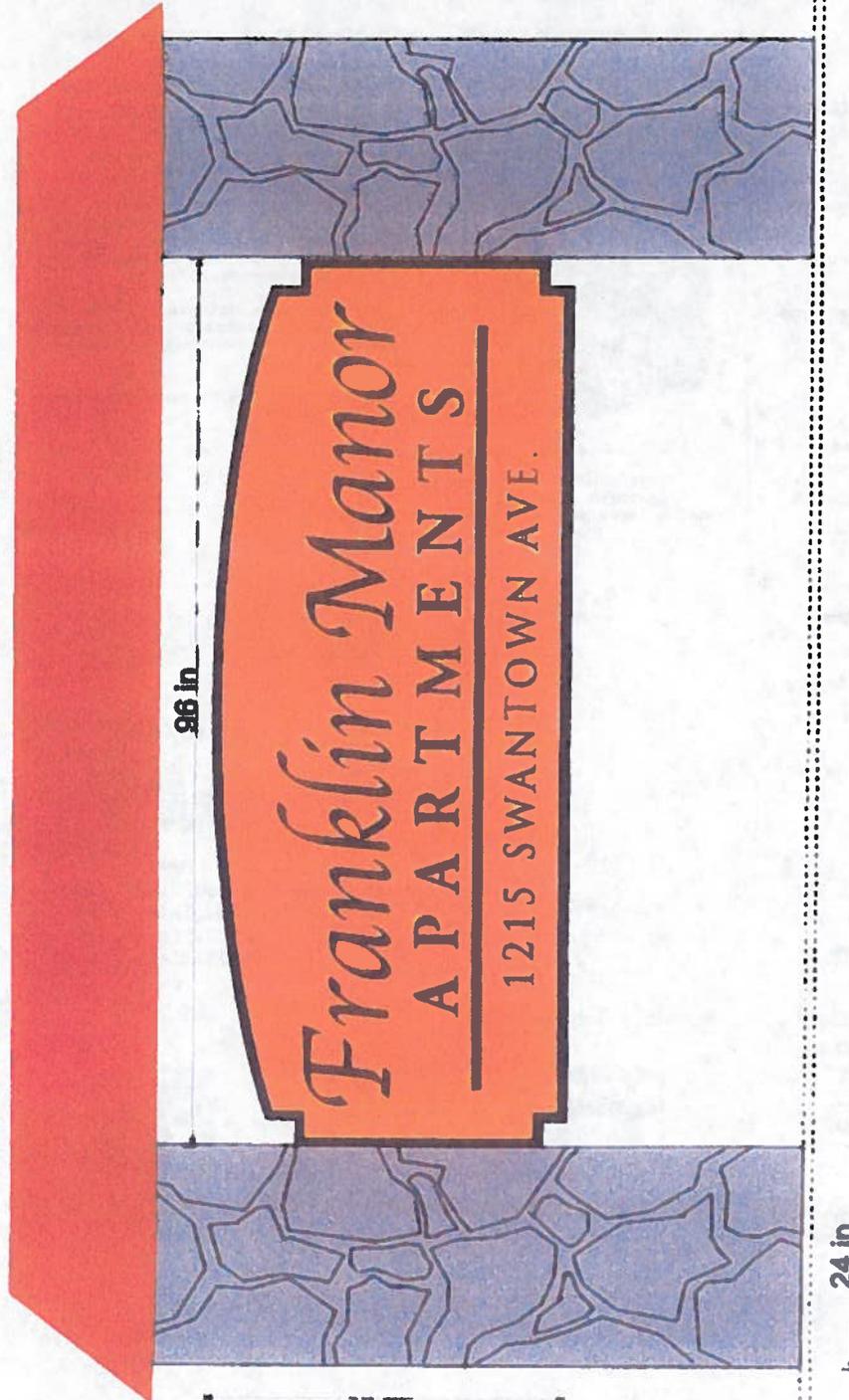
Colors

40" x 96" Sandblast Sign—Qty 3

File Name

Size/Quantity

Notes



96 in

40 in

24 in

63

132

EXHIBIT 7

2010

CITY OF OAK HARBOR  
Development Services Department



# Franklin Manor

IHD-130-10A



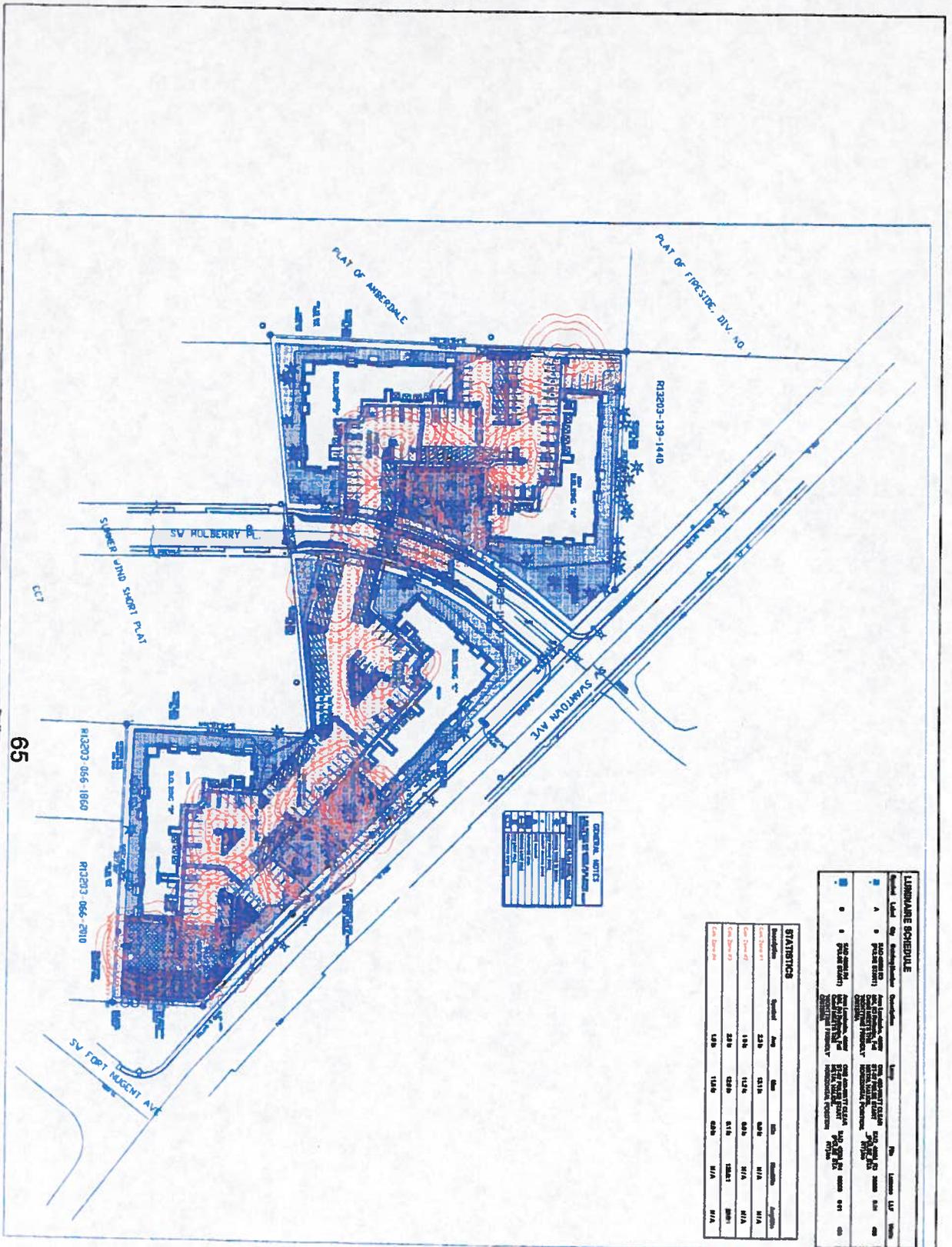
View B

View A

the world needs play.

64  
133

EXHIBIT 7



**LUMINAIRE SCHEDULE**

Symbol	Label	Qty	Manufacturer	Model	Wattage	Notes
■	A	288	OSRAM	OSRAM	470	OSRAM 470W HPS
■	B	0	OSRAM	OSRAM	0	OSRAM 0W HPS
■	C	0	OSRAM	OSRAM	0	OSRAM 0W HPS
■	D	0	OSRAM	OSRAM	0	OSRAM 0W HPS

**STATISTICS**

Symbol	Label	Qty	Manufacturer	Model	Wattage	Notes
■	A	288	OSRAM	OSRAM	134,400	OSRAM 470W HPS
■	B	0	OSRAM	OSRAM	0	OSRAM 0W HPS
■	C	0	OSRAM	OSRAM	0	OSRAM 0W HPS
■	D	0	OSRAM	OSRAM	0	OSRAM 0W HPS
<b>Total</b>		<b>288</b>			<b>134,400</b>	

**GENERAL NOTES**

1. SEE GENERAL NOTES TO DRAWING.
2. SEE GENERAL NOTES TO DRAWING.
3. SEE GENERAL NOTES TO DRAWING.
4. SEE GENERAL NOTES TO DRAWING.
5. SEE GENERAL NOTES TO DRAWING.



Franklin Manor  
for  
Hightech Electric

Designer  
Jeff Anderson I/C  
Date  
Jul 8 2010  
Scale  
Drawing No.  
1 of 1  
EXHIBIT 7

134

# CIMARRON SERIES

Cat. #	Approvals
Job	Type
<b>RECEIVED</b>	
AUG 24 2010	

**SPAULDING LIGHTING**

**APPLICATIONS**

- Area and site lighting.

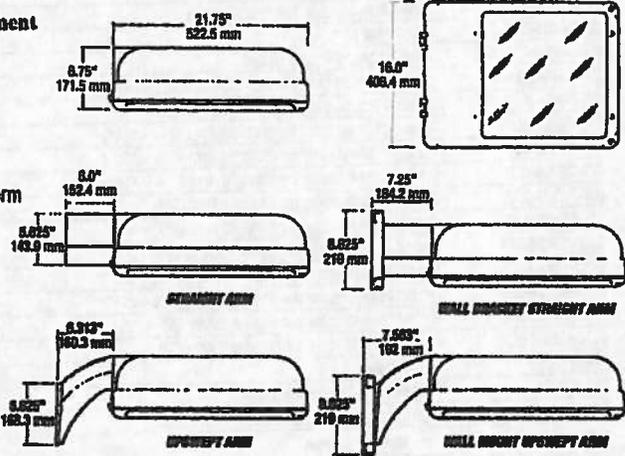
**FEATURES**

- Complements 'Southwest Series'
- IES Type II, III, V (square) and forward throw light distributions
- Flat lens design
- 100w to 400w lamps in HPS, and Pulse Start MH for design flexibility
- All distributions are field-rotatable
- Mounts on upswept, straight arms for poles or on wall bracket for a uniform project look
- 5 standard, 2 premium, and custom colors are available

**LISTINGS/CERTIFICATIONS**

- UL 1598 listed and CSA certified for outdoor use in wet locations.
- IDA fixture seal of approval.

**CITY OF OAK HARBOR**  
Development Services Department



For more detail, see PSG page

EPA = 1.2 f' (single unit with arm)



**ORDERING INFORMATION**

**ORDERING EXAMPLE**

**CR1 - A - P40 - H3P - F - Q - DB - L**

Series      Mount      Wattage/Source      Lamp Orientation/Distribution      Lens      Voltage      Color      Options

**SERIES**

CR1 Cimarron

**MOUNT**

- A** Arm Mount Construction (6" straight rigid arm included & acceptable for 90° configurations)
- AD** Decorative Arm Mount Const. (6" decorative upswept arm incl. & acceptable for 90° configurations)
- WB** Wall Bracket Const. (includes Wall Bracket & 6" straight arm unless WBAD option is chosen which substitutes Decorative Upswept Arm)
- 0** No Arm or Wall Bracket (only order without arm or wall bracket when they are ordered as accessory)

**WATTAGE/SOURCE**

PULSE START METAL HALIDE	
P10	100W (ED-17 Med base)
P12	125W (ED-17 Med base)
P16	150W (ED-28 Mog base)
P17	150W (ED-28 Mog base)
P20	200W (T-15 Mog base)
P25	250W (ED-28 Mog base)
P32	320W (ED-28 Mog base)
P35	350W (ED-28 Mog base)
P40	400W (ED-28 Mog base)

**HIGH PRESSURE SODIUM**

S10	100W (ED-23 1/2 Mog base)
S16	150W (ED-23 1/2 Mog base)
S25	250W (ED-18 Mog base)
S40	400W (ED-18 Mog base)

**LAMP ORIENTATION/DISTRIBUTION**

- H2** Horizontal II - hydroformed
- H3** Horizontal III - hydroformed
- H3P** Horizontal III - Performance Series (Segmented)
- H4** Horizontal IV - multi-piece
- H4P** Horizontal IV - Performance Series (Segmented)
- H5** Horizontal V (square) - hydroformed
- H5P** Horizontal V - Performance Series (Segmented)

**LENS**

F Flat

**VOLTAGE**

- Q** Quad-Tap - 120, 208, 240 277V
- V** Five-Tap - 120, 208, 240, 277, 480V
- U** 480V
- T** Tri-Tap - 120, 277, 347V
- E** 50 Hz 220/240V
- 0** No Ballast

1 Factory rated for highest voltage unless otherwise specified

**COLOR**

- DB** Dark Bronze
- BL** Black
- WH** White
- GR** Gra
- PS** Platinum Silver
- RD** Red (premium color)
- FG** Forest Green (premium color)
- CC** Custom Color (consult factory)

**OPTIONS**

- WBAD** Substitutes Decorative Upswept Arm when WB wall bracket mounting is chosen
- RPA2** Round Pole Adapter (2 3/4" - 3 1/4")
- RPA3** Round Pole Adapter (3 1/4" - 3 3/4")
- RPA4** Round Pole Adapter (3 3/4" - 4 1/4")
- RPA5** Round Pole Adapter (5")
- RPA6** Round Pole Adapter (6")
- F1** Fusing - 120V
- F2** Fusing - 208V
- F3** Fusing - 240V
- F4** Fusing - 277V
- F5** Fusing - 480V
- F6** Fusing - 347V
- P1** Photo Button - 120V
- P2** Photo Button - 208V
- P3** Photo Button - 240V
- P4** Photo Button - 277V
- P5** Photo Button - 347V
- PC1** Photo Cell Receptacle - 120V
- PC2** Photo Cell Receptacle - 208V
- PC3** Photo Cell Receptacle - 240V
- PC4** Photo Cell Receptacle - 277V
- PC5** Photo Cell Receptacle - 480V
- PC6** Photo Cell Receptacle - 347V
- QZ** Quartz HS with lens
- HS** Internal House Side Shield (available for H2, H3 & H4 distributions)
- VG** Polycarbonate Vandal Guard
- L** Lamp

**SELECT UNITS ARE STOCKED FOR IMMEDIATE SHIPMENT.**

66  
135

# ACCESSORIES

## CIMARRON ACCESSORIES

CATALOG #	DESCRIPTION
ARM-CR-S-S-XX <sup>1</sup>	6" Rigid Straight Arm
ARM-CRD-S-S-XX <sup>1</sup>	6 1/2" Rigid Upswept Arm
ARM-CR-K-TA-XX <sup>1</sup>	Tenon Arm (single) adjustable
ARM-CR-TA-TA-XX <sup>1</sup>	Tenon Arm (double 180°) adjustable
ARM-CR-K-S-XX <sup>1</sup>	Adjustable Arm
CR1-PVS	Polycarbonate Vandal Guard
CR1-HS-23	Internal House Side Shield (H2 & H3 distributions)
CR1-HS-4	Internal House Side Shield (H4 distribution)
CR-RPA2-XX <sup>1</sup>	Round Pole Adapter for Straight Arm (2 3/4" - 3 1/4")
CR-RPA3-XX <sup>1</sup>	Round Pole Adapter for Straight Arm (3 1/4" - 3 3/4")
CR-RPA4-XX <sup>1</sup>	Round Pole Adapter for Straight Arm (3 3/4" - 4 1/4")
CR-RPA5-XX <sup>1</sup>	Round Pole Adapter for Straight Arm (5")
CR-RPA6-XX <sup>1</sup>	Round Pole Adapter for Straight Arm (6")
CRD-RPA2-XX <sup>1</sup>	Round Pole Adapter for Upswept Arm (2 3/4" - 3 1/4")
CRD-RPA3-XX <sup>1</sup>	Round Pole Adapter for Upswept Arm (3 1/4" - 3 3/4")
CRD-RPA4-XX <sup>1</sup>	Round Pole Adapter for Upswept Arm (3 3/4" - 4 1/4")
CRD-RPA5-XX <sup>1</sup>	Round Pole Adapter for Upswept Arm (5")
CRD-RPA6-XX <sup>1</sup>	Round Pole Adapter for Upswept Arm (6")
WB-CR-XX <sup>1</sup>	Wall Bracket
TPLB-XX <sup>1</sup>	Twin Parallel Luminaire Bracket
CR1-ENS-XX <sup>1</sup>	External 3 Sided Glare Shield (not rotatable)

<sup>1</sup> Replace XX with color choice, eg: 06 for Dark Bronze

<sup>2</sup> When ordering poles, specify Pole Drill Pattern #2

## TENON TOP POLE BRACKET ACCESSORIES (2 1/4" OD tenon)

(RSS version requires 4" round pole adapter)

CATALOG #	DESCRIPTION
SETA-XX <sup>1</sup>	Square Pole Tenon Adapter (4 at 90 degrees)
RETA-XX <sup>1</sup>	Round Pole Tenon Adapter (4 at 90 degrees)
TEPA-XX <sup>1</sup>	Hexagonal Pole Tenon Adapter (3 at 120 degrees)

<sup>1</sup> Replace XX with color choice, eg: 06 for Dark Bronze

## PHOTOCONTROL EQUIPMENT

CATALOG #	DESCRIPTION
PTL-1	Photocontrol - Twist-Lock Cell (120V)
PTL-8	Photocontrol - Twist-Lock Cell (120-277V)
PTL-9	Photocontrol - Twist-Lock Cell (480V)
PTL-9	Photocontrol - Twist-Lock Cell (347V)
PSC	Shorting Cap - Twist-Lock

## SPECIFICATIONS

**HOUSING** Architecturally styled, one piece die-cast aluminum housing with nominal .125" wall thickness. Low profile design reduces the overall wind loading while providing a sleek, unobtrusive look which complements most building architectural styles.

**DOOR** Die-cast aluminum door hinges to housing and secures with two captive screws providing four points on contact ensuring a clean lens and optical assembly. Both the flat tempered glass and door are sealed with one-piece silicone gaskets.

**OPTICS** Multiple levels of photometric performance to be achieved via tiered optic offering ranging from fully segmented to hydroformed reflectors. All optical assemblies to field rotate in 90° increments. All distributions to be IES full cutoff classification. House side shielding available as either factory installed options or field installed accessories.

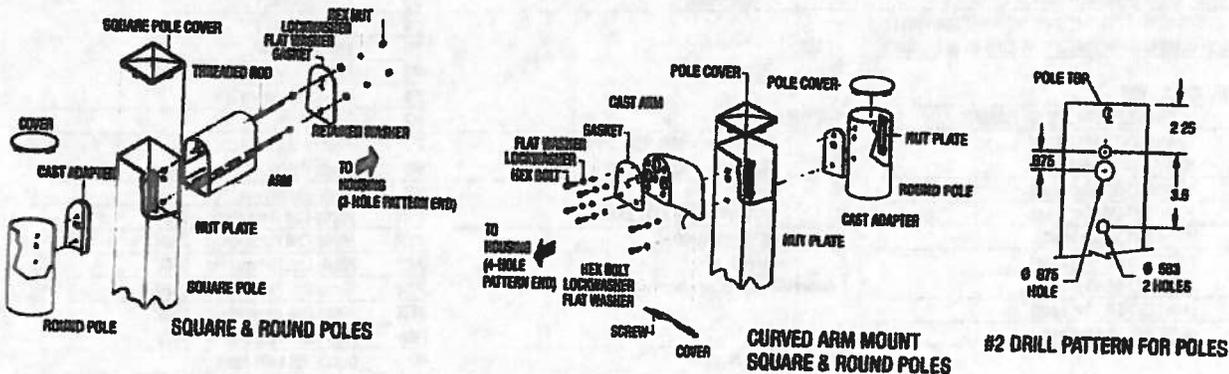
**MOUNT** Two arm designs are available providing maximum design flexibility. The die-cast aluminum arm offers a sleek upswept look while the extruded straight arm includes the housings contoured lines for continuity of style. A wall bracket and pole/tenon accessories are also available allowing easy mounting for virtually any application.

**ELECTRICAL** Energy efficient HID lamps up to 400 watts. Pulse rated porcelain sockets have spring loaded, nickel plated center contact. All units offer factory or field-installable photocell options and fusing.

**BALLAST** HPF ballast circuit, starting rated at -20 deg F (-40 deg F for HPS). Ballast and other electrical components mounted directly to housing for excellent heat dissipation and long life.

**FINISH** TGIC thermoset polyester powder paint finish applied at nominal 2.5 mil thickness. Prior to painting all luminaires and mounting accessories should be thoroughly cleaned with acid and alkaline cleaners followed by the application of a chromate conversion coating.

**LISTING** UL 1598 listed and CSA certified for outdoor wet location applications



Due to our continued efforts to improve our products, product specifications are subject to change without notice.

**SPAULDING LIGHTING**

Spaulding Lighting • 701 Millennium Drive • Greenville, SC 29607 • PHONE: 864-678-1000

For more information visit our web site: [www.spauldinglighting.com](http://www.spauldinglighting.com)

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EXHIBIT 7

# POLE OFFERING STEEL & ALUMINUM PRODUCTS

**SPAULDING  
LIGHTING**

Spaulding Lighting's complete line of poles offer simple solutions for all your lighting needs from 8 to 60 feet in height. Pole applications include floodlighting, auto dealerships, commercial site lighting and roadways. Mounting configurations include tenon top, side mount, pad mount and open top designs to match any luminaire style.

Constructed with exacting standards both our aluminum and steel products meet strict guidelines for quality, strength and finish durability. Protecting your investment for years is our Lektrocote® powder paint, galvanized finish (steel poles only) or "satin" natural aluminum finish (aluminum poles only). From shaft cutting through finishing, quality control inspections are conducted throughout a highly automated process.

To ensure the finish is not damaged during shipment, all poles are protected with either cardboard or double wrapped foam/plastic.

## STEEL PRODUCTS

Series	Construction	Shaft Size	Wall Thickness	Lengths
SSS	Square Straight Steel	4", 5", 6"	11 GA, 7 GA, 3 GA	10 - 40 ft
RSS	Round Straight Steel	3", 4", 4.5", 5", 6"	11 GA, 7 GA, 3 GA	8 - 30 ft
STS	Square Tapered Steel	5" - 8"	11 GA, 7 GA	20 - 50 ft
RTS	Round Tapered Steel	5" - 12"	11 GA, 7 GA	10 - 60 ft
SHS	Square Hinged Steel	4", 5", 6"	11 GA, 7 GA	20 - 40 ft

## ALUMINUM PRODUCTS

Series	Construction	Shaft Size	Wall Thickness	Lengths
SSA	Square Straight Aluminum	4", 5", 6"	.125", .188", .250"	10 - 30 ft
RSA	Round Straight Aluminum	3", 4", 4.5", 5", 6"	.125", .188", .250"	8 - 30 ft
RTA	Round Tapered Aluminum	4" - 8"	.125", .188", .220", .250"	8 - 40 ft

For our most current product information and complete product details, please visit:  
[www.spauldinglighting.com](http://www.spauldinglighting.com)

Due to our continued efforts to improve our products, product specifications are subject to change without notice.

**SPAULDING  
LIGHTING**

Spaulding Lighting • 101 Corporate Drive • Spartanburg, SC 29303 • PHONE 864-599-6000  
For more information visit our web site: [www.spauldinglighting.com](http://www.spauldinglighting.com)

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EXHIBIT 7



# ENGINEERED PRODUCTS CO.

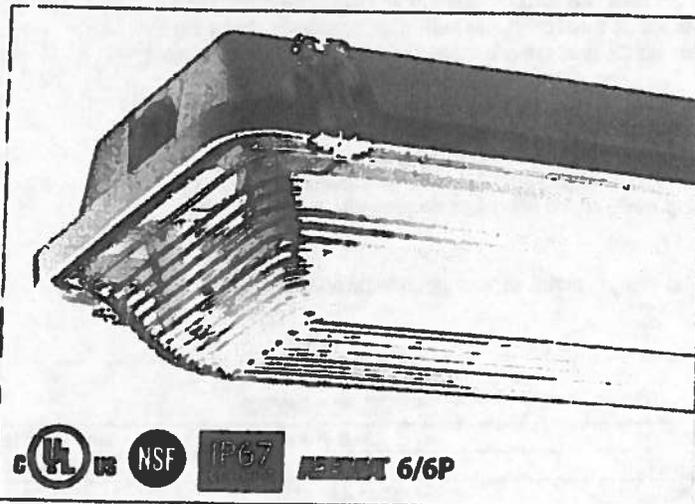
LIGHTING PRODUCTS

5401 Smetana Drive • Minnetonka, MN 55343  
P 952.767.8780 / 800.336.1976 • F 952.767.8786 / 800.336.2801

Visit our Web Site at [engproducts.com](http://engproducts.com)

GFF

Product Data Sheet



### Typical Applications

- Food processing facilities
- Commercial kitchens
- Breweries
- Industrial facilities
- Livestock containment buildings
- Parking garages
- Under awnings
- Laundries
- Road tunnels
- Car washes
- Marinas
- Cold storage
- Cleanrooms
- Airports

### Benefits

- Labor savings! Fast installation saves time and reduces labor cost.
- Reliable, durable, maintenance free performance!
- Long lasting fixture will not deteriorate under most hostile environments when it is installed according to factory procedures.
- 99% of all orders are shipped on time!

### Features

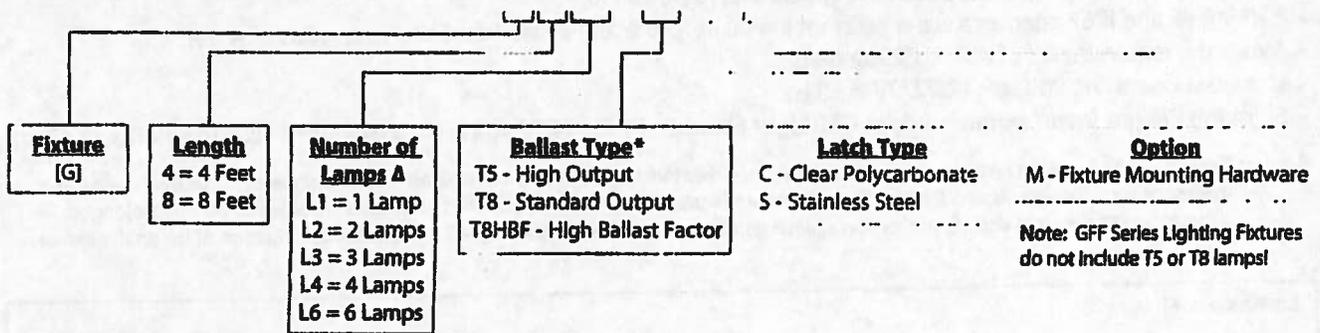
- Suitable for indoor or outdoor use.
- Multiple configurations available for T5 or T8 lamps in 4-Foot and 8-Foot lengths.
- Ingress Protection - NEMA 6P and IP67 rated dust and moisture resistant luminaire; suitable for use in wet locations where high-pressure wash-down is required.
- Certified and tested by NSF International to ANSI Standard 2.†
- Continuous "poured-in-place" closed cell polyurethane gasket completely seals the fixture from dust and moisture.
- Fixture Mounting Hardware allows the contractor to pre-install the mounting brackets to the mounting surface without drilling into the fixture housing.
- Tethered gear tray simplifies installation and power-to-ballast connection.
- Luminaire Disconnect - Enables the electrical contractor to easily and safely disconnect the incoming power and allow safe servicing of the GFF Series Fixtures and/or ballast with exposure to electrical shock.◊
- Impact resistant acrylic diffuser attaches to the fixture housing without tools.
- "Captive" Polycarbonate or Stainless Steel Cam Latches.
- Domestic Ballast Manufacturer.
- 100% factory tested before shipping. No contractor callbacks!
- Two (2) 1/2" trade size knockouts accommodate standard conduit fittings.

† NSF International is also recognized as the National Sanitation Foundation, a leader in product certification and standards development. The NSF mark (●) is your assurance that all GFF Series Lighting Fixtures have been tested and certified by one of the most respected independent certification companies in existence today. Products evaluated and certified by NSF International include bottled water, food equipment, home water treatment products, home appliances, plumbing and faucets, and even pool and spa components.

◊ Complies with the 2008 NEC Article 410.130 (G) and CEC 30-308 (4) requirements for non-residential wiring of luminaires with ballasts

**Ordering Example: G4L2T8CLM**

**G 4 L 2 - T 8 - C L M**



**Δ Lamps per Fixture (see illustration on the following page)**

- 4-Foot GFF Light Fixture: Maximum of three (3) T5 or T8 lamps.
- 8-Foot GFF Light Fixture: Maximum of six (6) T5 or T8 lamps. Note: The 8-Foot fixture will **NOT** accommodate F96 lamps.

**\* Minimum Starting Temperature**

- T5 GFF Light Fixture - High Output Ballast: -20°F / 29C°.
- T8 GFF Light Fixture - Standard Output Ballast: 0°F / 18C°.
- T8 GFF Light Fixture - High Ballast Factor (HBF): -20°F / 29C°.

Note: High Output (HO) lamps operate with a higher current, therefore, requiring ballasts to match the high output lamp designation and design. High Ballast Factor is a system operating a standard output lamp to a higher wattage and lumen performance within the standard lamp design.

**Option - Fixture Mounting Hardware**

**M - Fixture Mounting Hardware:** Maintain the NEMA 6P and IP67 Ingress Protection rating of the GFF Series Lighting Fixture by using the Fixture Mounting Hardware (FMH). The FMH eliminates drilling into the fixture housing and allows the contractor to pre-install the mounting brackets to the mounting surface.

The Fixture Mounting Hardware includes two (2) stainless steel mounting brackets and two (2) ball hangers. Use the ball hangers for chain or cable hanging installations.

Note: When specified, the Fixture Mounting Hardware is packaged with your GFF Series Lighting Fixture order.

**Recommended Lamp Types and Wattage Size**

- T5 Lamps: For High Output (HO) T5 F54 lamps **only**.
- T8 Lamps: For standard output T8 F32 lamps **only**. T8 High Output (HO) lamps cannot be used with this fixture.

**Warning:** VHO Lamps **must never be used** under any circumstances or you will damage the GFF Series Lighting Fixture.

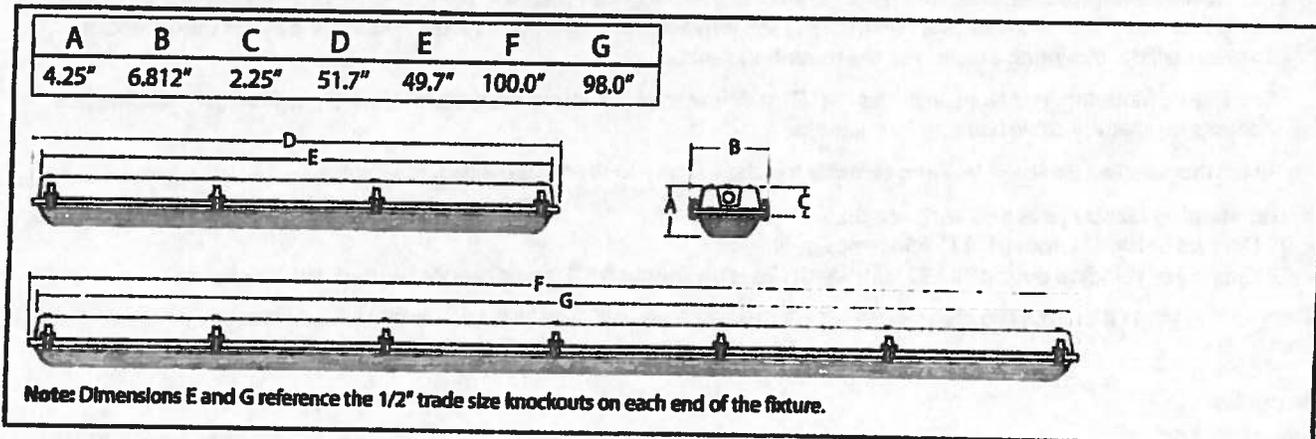
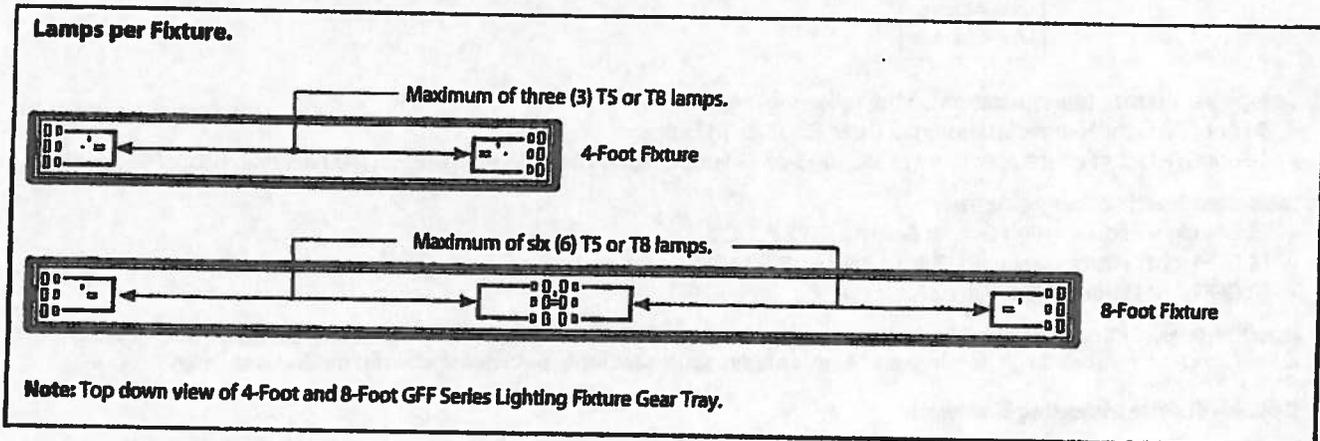
**Accessories**

CATALOG No.	UPC No.	DESCRIPTION	STANDARD PACKAGE	STD. PKG. SHIP Wt. (Lb.)
GFF-D4	14253	Replacement Acrylic Diffuser for 4-Foot GFF Series Lighting Fixture	5/ Carton	10
GFF-D8	14254	Replacement Acrylic Diffuser for 8-Foot GFF Series Lighting Fixture	5/ Carton	21
GFF-L4C	14249	Replacement Polycarbonate Latches for 4-Foot GFF Series Lighting Fixture	8/ Pkg.	1
GFF-L4SS	14250	Replacement Stainless Steel Latches for 4-Foot GFF Series Lighting Fixture	8/ Pkg.	1
GFF-L8C	14251	Replacement Polycarbonate Latches for 8-Foot GFF Series Lighting Fixture	14/ Pkg.	1
GFF-L8SS	14252	Replacement Stainless Steel Latches for 8 Foot GFF Series Lighting Fixture	14/ Pkg.	1
GFF-MH	14248	GFF Series Lighting Fixture Mounting Hardware Kit	2/ Pkg.	1
GFF-TPS-C	14255	Tamper Resistant Stainless Screws for Polycarbonate Latches	100/ Pkg.	1
GFF-TPS-S	14256	Tamper Resistant Stainless Screws for Stainless Steel Latches	100/ Pkg.	1
JC14B/100B	10205	#14 AWG Jack Chain, 100-Foot per Box	1/ Carton	5
DL3B/100B	10211	#14 AWG Bright Double Loop Chain, 100-Foot per Box	1/ Carton	5

**Specifications**

- UL Listed and approved for use in wet locations.
- Meets the requirements of the 2008 NEC, Article 410.10 (A) and (B).
- \* NEMA 6P and IP67 rated as a water resistant luminaire; protected against dust and strong jets of water.
- Meets the requirements of NSF ANSI Standard 2.
- Universal Operating voltage: 120/277V @ 60 Hz.
- Shipping Weight (approximate): 4-Foot GFF Light Fixture - 11 lbs. (4.98 kg); 8-Foot GFF Light Fixture - 19 lbs. (8.61 kg).

\* Note: The GFF Series Lighting Fixtures are manufactured for either indoor or outdoor use and provides a degree of protection against the ingress of solid foreign objects (i.e., dust), the ingress of water (i.e., hose directed water and the entry of water during prolonged submersion at a limited depth), protection against corrosion, and will be undamaged by the external formation of ice on the fixture.



**Warranty**

Engineered Products Company warrants that the GFF Series Lighting Fixtures sold and delivered to the Buyer are free from defects in quality, workmanship and material under normal use from the date of delivery for a period of one (1) year. The ballast warranty is five (5) years and is limited to the original or first end-user purchaser only. Contact the ballast manufacturer directly for more specific information.

Engineered Products Company  
 5401 Smetana Drive • Minnetonka, MN 55343  
 P 952.767.8780 / 800.336.1976 • F 952.767.8786 / 800.336.2801

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E02-070-001 C1 (08/09 SP)

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EXHIBIT 7

Model Number: TL-110-PL-84-120/277

Approvals:

Accessories:

Type:

Job:

### PRODUCT SPECIFICATIONS

#### CONSTRUCTION

The Trace-lite TL110 Series features a durable, die-cast aluminum enclosure with an architectural bronze powder coated finish. Enclosure is fully sealed and gasketed, and is Wet Location Listed for outdoor use. Enclosure and hardware are corrosion resistant. The TL110 features an internal, anodized aluminum reflector which provides ideal light distribution, and the lamp(s) are protected by a high-impact, heat resistant tempered glass lens.

#### LAMPS & BALLASTS

**Compact Fluorescent:** 4-Pin Triple Tube lamps from 26 to 84 watts, utilizing a G24-q3 base with an electronic programmed start ballast rated for a minimum operating temperature of -20°C (-4°F) and 120/277VAC input.

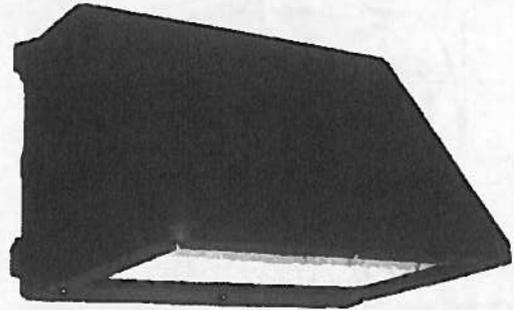
**High Pressure Sodium:** B17 type lamps from 35 to 150 watts, utilizing a medium base, glazed porcelain socket pulse rated for 4KV with either a R-NPF or HX-HPF type ballast rated for a minimum operating temperature of -30°C (-22°F) and 120VAC, Double-tap (120/277VAC), Multi-tap (120/208/240/277VAC) or 480VAC input.

**Metal Halide:** BD17 type lamps from 70 to 100 watts, utilizing a medium base, glazed porcelain socket pulse rated for 4KV with an HX-HPF ballast rated for a minimum operating temperature of -30°C (-22°F) and Multi-tap (120/208/240/277VAC) or 480VAC input.

**Pulse Start Metal Halide:** BD17 type lamps from 150 watts, utilizing a medium base, glazed porcelain socket pulse rated for 4KV with a CWA ballast rated for a minimum operating temperature of -30°C (-22°F) and Multi-tap (120/208/240/277VAC) or 480VAC input.

#### INSTALLATION

The Trace-lite TL110 Series is ideal for mounting to any vertical surface and features a hinged design for easy access to internal components. Can be wired to a 4" junction box, or surface mounted using 1/2" NPS conduit entry points. The TL110 can be mounted in an inverted position, the unit is then only rated for damp locations.



The Trace-lite TL110 Series is an architectural, full cutoff wallpack that is ideal for parking areas, entrances, walkways, underpasses, loading docks, and recreation areas. Available with Compact Fluorescent, Metal Halide, Pulse Start Metal Halide or High Pressure Sodium lamps for any application.

#### WARRANTY

Any housing component that fails due to manufacturer's defect is guaranteed for two years from time of shipment. Ballasts, Capacitors, and Ignitors are warranted for one year from time of shipment. Warranty does not apply to damages caused by improper installation, abuse, fire or acts of God. Lamp is not covered by manufacturer's warranty.



**DARKSKY COMPLIANT**

### ORDERING INFORMATION

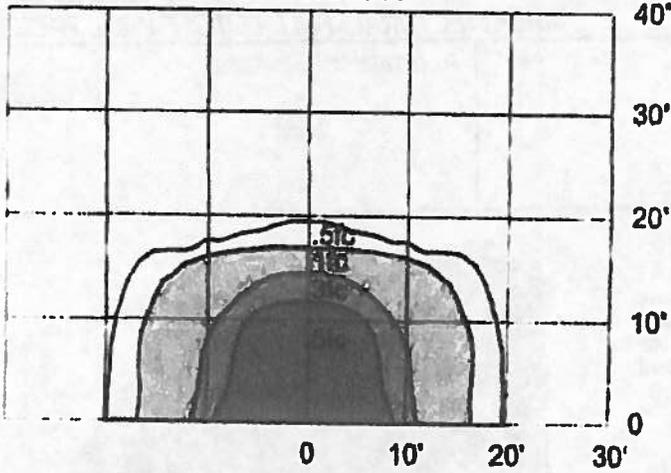
TL110	PSMH	150	MT	DZ208	WG110 <sup>5</sup>
SERIES	LAMP	WATTS	VOLTS	OPTIONS (Factory Installed)	ACCESSORIES (Field Installed)
TL110	PL = Compact Fluorescent MH = Metal Halide PSMH = Pulse Start Metal Halide HPS = High Pressure Sodium	Compact Fluorescent 213 = 13W x 2 26 = 26W 52 = 26W x 2 32 = 32W 64 = 32W x 2 42 = 42W 84 = 42W x 2 Pulse Start Metal Halide 150 = 150W	Metal Halide 70 = 70W 100 = 100W 150 = 150W High Pressure Sodium 35 = 35W 50 = 50W 70 = 70W 100 = 100W 150 = 150W	120 <sup>1</sup> = 120V 120/277 <sup>2</sup> = 120/277V DT <sup>3</sup> = 120/277V MT <sup>4</sup> = 120/208/240/277V 480 <sup>1</sup> = 480V PC1FAC = 120V Photocontrol PC1FAC = 208-277V Photocontrol 2B <sup>3</sup> = Two AC Ballasts (2 Lamp PL Fixtures) SZXXXX = Single Line Side Fuse (Specify 120 or 277V) DZXXXX = Double Line Side Fuse (Specify 208, 240 or 480V)	PC1 = 120V Photocontrol PC2 = 208 277V Photocontrol WG110 = Wireguard PG110 = Polycarbonate Guard

10810010 1089

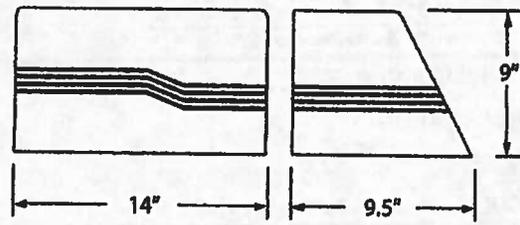
SPECIFICATIONS ARE SUBJECT TO CHANGE WITHOUT NOTICE

**SAMPLE PHOTOMETRICS**

TL110-PSMH-150 Mounted at 10'



**DIMENSIONS**



TL110 Approx. Weight: 12 lbs.

**Footcandle Correction**

Multiply factors times the footcandle values for changes in lamp type.

Lamps	26W PL	42W PL	50W MH	100W MH	100W HPS	150W HPS
Factor	.11	.20	.20	.56	.59	1.00

**Trace-lite**  
commercial & architectural lighting

a division of **BARRON LIGHTING GROUP**  
1911 West Parkside Lane • Phoenix, AZ 85027  
(888) 533-3948 • (623) 580-3948 • Fax: (623) 580-8948  
www.trace-lite.com • www.barronitg.com

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EXHIBIT 7

## DESCRIPTION

The H572ICAT is designed for insulated ceilings and can be in direct contact with ceiling insulation. This AIRTITE™ housing design prevents airflow between attic and living areas and saves on both heating and air conditioning costs. The 26W electronic compact fluorescent ballast meets stringent Energy Star requirements including FCC Title 47 CFR part 18 for Consumer equipment. The H572ICAT offers a wide choice of trim types including reflector, lensed and wall wash trims. The H572ICAT is warranted for 2 years.

## DESIGN FEATURES

### A...Housing

Single wall aluminum housing. Openings are gasketed for AIRTITE installation. 7" housing height allows use in 2" x 8" joist construction. Housing adjusts for ceilings up to 1 3/8" thick. AIR-TITE ceiling-to-housing installation gasket included.

### B...Plaster Frame

Includes regressed locking screw for hanger bars and cutouts for crimping hanger bars in position

### C...Junction Box

- Listed for through branch circuit wiring
- Positioned to accommodate straight conduit runs
- Seven 1/2" trade size conduit knockouts with true pry-out slots
- Slide-N-Side™ connectors allow non-metallic sheathed cable to be installed without tools and without removing knockouts. Accepts a wider range of non-metallic sheathed cable - the standard cable types used in lighting for both U.S. and Canada.
  - Allows wiring connections to be made outside the junction box
  - Simply insert the cable directly into the trap after connections are made
- accommodates the following standard non-metallic sheathed cable types:
  - (US) #14/2, #14/3, #12/2, #12/3
  - (Canada) #14/2, #14/3, #12/2

### D...Bar Hangers

#### Bar Hanger Features include:

- Pre-Installed nail easily installs in regular lumber, engineered lumber and laminated beams
- Safety and guidance system prevents snagging, ensures smooth straight nail penetration and allows bar hangers to be easily removed if necessary.
- Automatic levelling flange aligns the housing and lets you hold the housing in place with one hand while driving nails
- Housing can be positioned at any point within 24" joist span
- Score lines allow "toolless" shortening for 12" joists
- Bar hangers may be repositioned 90°
- Bar hangers do not need to be removed from frame for shortening
- Integral T-bar clips snaps onto T-bars - no additional clips required

### E...Socket

G24q-3/GX24-3 socket for one 26W DTT - Double Twin Tube (Quad) or 26W TTT - Triple Twin Tube 4 pin lamp.

### F...Lamp

Compact Fluorescent lamp (by others)  
 Generic 26Watt Lamp Designations  
 DTT-Double Twin Tube (Quad) (CFQ)  
 • CFQ26W/G24q 2700K  
 • CFQ26W/G24q 3000K

Order #		Type
Project		
Comments		Date
Prepared By		

### TTT-Triple Twin Tube (CFTR)

- CFTR26W/GX24q 3000K
- CFTR26W/GX24q 3000K
- 12,000 hour rated average life
- 82 CRI rated lamps provide excellent color and high visual comfort.
- Color temperature (warm to cool) options offer 2700K warm or 3000K medium-warm incandescent-like light.

### G...Electronic Ballast

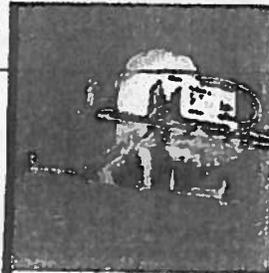
Thermally protected, fused, 120 volt electronic ballast provides full light output and rated lamp life. Provides flicker free and noise free operation and starting. End of lamp life protection is standard. Meets FCC EMI/RFI consumer level limits.

### Labels

- UL/cUL Listed for Damp Location
- UL/cUL Listed wet location with select trims
- UL Listed for Direct Contact with insulation and combustible material
- UL/cUL listed for Feed Through

### Compliance

- Meets State of California Title 24 High efficacy luminaire
- Washington State Energy Code
- New York State Energy Conservation Construction Code
- International Energy Conservation Code
- Energy Star Qualified
- Certified AIR-TITE under ASTM-E283



**H572ICAT**  
**5" Insulated Ceiling**  
**Compact Fluorescent**  
**AIR-TITE™ Recessed**  
**Housing**  
**26 Watt Compact**  
**Fluorescent**

**5" TRIMS**  
**FOR USE IN**  
**INSULATED**  
**CEILINGS**

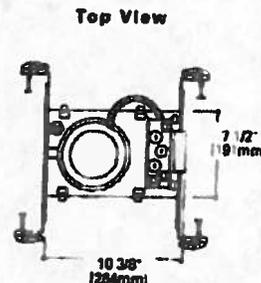
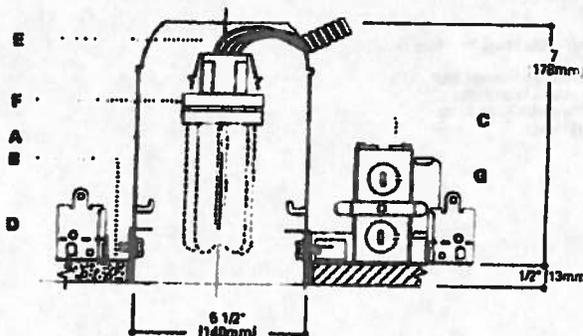
**FOR DIRECT**  
**CONTACT WITH**  
**INSULATION**

### Lamp/Ballast Energy Data

Rated Lamp Watts: 26W  
 Voltage: 120V  
 Input Current: 0.23A  
 Input Power (ANSI Watts): 26W



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Ordering information and 2 year warranty information on reverse

COOPER LIGHTING

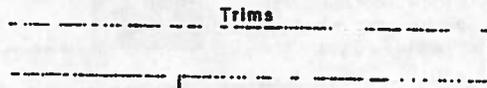
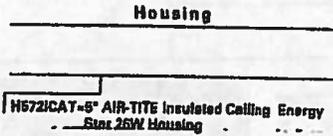
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**TRIMS**

**ORDERING INFORMATION**

SAMPLE NUMBER: H572ICAT80218C

Order housing, trim and accessories separately.



**2 YEAR LIMITED WARRANTY**

Energy Star Labeled Recessed Lighting Cooper Lighting (The Company) warrants this product ("the product") against defects in material or workmanship for a period of two years from date of original purchase, and agrees to repair or, at the company's option, replace a defective product without charge for either replacement parts or labor during such time. This does not include labor to remove or install fixtures.

This warranty is extended only to the original purchaser of the product. A purchaser receipt or other proof of date of original purchase acceptable to the Company is required before warranty performance shall be rendered.

This warranty only covers product failure due to defects in materials or workmanship which occurs in normal use. It does not cover the bulb or failure of product caused by accident, misuse, abuse, lack of reasonable care, alteration, or faulty installation, subjecting the product to any but the specified electrical service or any other failure not resulting from defects in materials or workmanship. Damage to the product caused by separately purchased, non-Company supplied components or bulbs, and corrosion or discoloration of components are not covered by this warranty.

There are no express warranties except as described above.

THE COMPANY SHALL NOT BE LIABLE FOR INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES RESULTING FROM THE USE OF THE PRODUCT OR ARISING OUT OF ANY BREACH OF THIS WARRANTY. ALL IMPLIED WARRANTIES, IF ANY, INCLUDING IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, ARE LIMITED IN DURATION TO THE DURATION OF THIS EXPRESS WARRANTY. Some states do not allow the exclusion or limitation of incidental or consequential damages, or limitations on how long an implied warranty lasts, so the above exclusions or limitations may not apply to you.

No other warranty, written or verbal, is authorized by the Company. This warranty gives you specific legal rights, and you may also have other rights which vary from state to state.

To obtain warranty service, please write to Cooper Lighting, 1121 Highway 74 South, Peachtree City Georgia 30286. Enclose product model number and problems you are experiencing, along with address and telephone number. You will then be contacted with a solution or a Return Goods Authorization number and full instructions for returning the product. All returned products must be accompanied by a Return Goods Authorization Number issued by the Company and must be returned freight prepaid. Any product received without a Return Goods Authorization Number from the Company will be refused.

Cooper Lighting is not responsible for merchandise damaged in transit. Repaired or replaced products shall be subject to the terms of this warranty and are inspected when packed. Evident or concealed damage that is made in transit should be reported at once to the carrier making the delivery and a claim filed with them.

**REFLECTORS**



5021

Reflector with White Trim Ring and Torsion Springs  
25W DTT, 25W TTT compact Fluorescent  
50218C-Specular Clear  
5021H-Haze Reflector  
5021RG-Residential Gold  
OD: 6-3/8" (165mm)

**BAFFLES**



5015

Metal Baffle with White Trim Ring and Torsion Springs  
25W DTT, 25W TTT compact Fluorescent  
ERT513-Black Baffle  
ERT513TB-Black Baffle with Torsion Springs  
ERT512WHT-White Baffle  
ERT512WHTTB-White Baffle with Torsion Springs  
OD: 6-3/8" (165mm)



5016

Coffin Baffle with White Trim Ring and Torsion Springs  
25W DTT, 25W TTT compact Fluorescent  
5016P-Black Baffle, White Trim Ring  
5016W-White Baffle, White Trim Ring  
OD: 6-3/8" (165mm)

**LENS**



5064

Frosted Glass Dome Shower Light with White Trim Ring and Torsion Springs  
25W TTT Compact Fluorescent ONLY  
5054FB-Shower Light - White Trim Ring  
5054BNS-Shower Light - Satin Nickel Trim Ring  
5054CS-Shower Light - Antique Copper Trim Ring  
5054TBS-Shower Light - Tuscan Bronze Trim Ring  
OD: 6-3/8" (165mm)



5061

Alabaster Lens Shower Light with Reflector, White Trim Ring and Torsion Springs  
25W TTT Compact Fluorescent ONLY  
5051PB-Shower Light  
OD: 6-3/8" (165mm)



5052

Frosted Lens Shower Light with Reflector, White Trim Ring and Torsion Spring  
25W TTT Compact Fluorescent ONLY  
5052B-Shower Light  
OD: 6-3/8" (165mm)



5030

Wall Wash with Baffle, White Trim Ring and Torsion Springs  
25W TTT Compact Fluorescent ONLY  
5030B-Wall Wash with Black Baffle  
5030W-Wall Wash with White Baffle  
OD 6 3/8 165mm

Gasket Kit  
GA-ATH5-6PK-Spare Ceiling to Housing Gasket Kit, 6 pieces

Note: Specifications and Dimensions subject to change without notice

Visit our web site at [www.cooperlighting.com](http://www.cooperlighting.com)

Customer First Center 1121 Highway 74 South Peachtree City GA 30269 770 486 4800 FAX 770 486 4801  
Cooper Lighting 5525 McLaughlin Rd Mississauga, Ontario Canada L5R 1B9 905 607.4000 FAX 905 608 7049



75  
144

**CITY OF OAK HARBOR**  
**MITIGATED DETERMINATION OF NONSIGNIFICANCE**

---

Description of proposal: Franklin Manor PRD, a 158 unit multi-family project.

Proponent Sean Hegstad, Haven Design Workshop, 907 Harris Avenue, Suite 301, Bellingham, WA 98225

Location of proposal 1215 SW Swantown Avenue, Oak Harbor, WA. Parcel number R13203-110-1730.

Lead Agency City of Oak Harbor

The lead agency for this proposal has determined that it does not have a probable significant adverse impact on the environment. An environmental impact statement (EIS) is not required under RCW 43.21C.030(2)(c). This decision was made after review of a completed environmental checklist and other information on file with the lead agency. This information is available to the public on request.

This mitigated DNS is issued under WAC 197-11-340(2), with a fourteen day comment period ending on September 1, 2010; provided there are no substantive comments submitted the MDNS will become final on that date. There will be a 15 day appeal period ending September 16, 2010.

**MITIGATION MEASURES:**

1. All of the mitigation measures identified in the Applicant's SEPA checklist dated June 18, 2010 shall be implemented.
2. The continued affordability of the proposed qualified affordable housing units must be secured through a permanent measure. The applicant shall propose a method to ensure this for City approval prior to the issuance of the first building permit.
3. The applicant or its contractor shall maintain a spill response plan for the purposes of addressing hazardous spills during construction.
4. If there are unforeseen impacts on tree retention areas adjacent to those being cleared for building lots and roadways, the Applicant shall prepare an alternative landscape and tree retention plan that provides procedures, design flexibility, and implementation necessary for addressing those impacts. This plan must be approved by the City prior to implementation.
5. As may be periodically required in response to changing site conditions, and as may be required by unforeseen impacts, the Applicant shall amend, correct, improve, or alter tree retention plans to ensure their effectiveness, including but not limited to: revegetation of areas; selective felling of trees; etcetera.

6. If any tree retention areas must be cleared due to potential for tree blow down or wind throw the following must be completed:

- a revegetation plan must be developed by the Applicant for approval by the City;
- the plan must include a mix of tree plantings (at a maximum of 20 -25 ft spacing, dependant upon species as approved by the City) and shrubs and ground cover to cover the remaining areas.

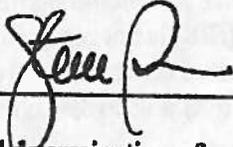
Responsible Official: Steve Powers, AICP

Position/Title: Development Services Director

Phone: (360) 279-4511

Address 865 SE Barrington Drive, Oak Harbor, WA 98277 Date August 18, 2010

Signature \_\_\_\_\_



**This mitigated determination of nonsignificance shall be considered final unless subsequently modified by a major amendment to the proposed project or as a result of comments received by September 2, 2010. You may appeal this determination at Oak Harbor City Hall, 865 SE Barrington Drive, Oak Harbor, WA, 98277 within fifteen days of the date set out above, or no later than close of business September 17, 2010.**



**CITY OF OAK HARBOR  
Development Services Department**

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**Application Form**

APR 2010

CITY OF OAK HARBOR  
Development Services Department

**Project Name:** FRANKLIN MANOR

**Type of Application:** HEIGHT VARIANCE

**Description of Proposal:**  
5% ADMINISTRATIVE VARIANCE REQUEST

<b>APPLICANT NAME/CONTACT PERSON</b> (or legal representative): <u>SEAN HEGSTAD</u> <u>NAVEN DESIGN WORKSHOP</u>	<b>Address:</b> <u>907 HARRIS AVE., SUITE 301</u> <u>BELLEVUE, WA 98225</u>
<b>E-mail Address:</b> <u>SEAN@NAVEN-DW.COM</u>	<b>Phone and Fax:</b> <u>360-527-2940</u> <u>360-527-2944</u>
<b>PROPERTY OWNER NAME</b> (list multiple owners on a separate sheet): <u>WINDMILL COURT LLC</u>	<b>Address:</b> <u>15015 MASH ST. SUITE 203</u> <u>BELLEVUE, WA 98007</u>
<b>E-mail Address:</b>	<b>Phone and Fax:</b> <u>425-748-2313</u> <u>425-746-6595</u>
<b>ENGINEER/SURVEYOR:</b> <u>DOUG CAMPBELL</u> <u>APC ENGINEERS</u>	<b>Address:</b> <u>1401 ASTOR ST.</u> <u>BELLEVUE, WA 98225</u>
<b>E-mail Address:</b> <u>DOUG@APCENGINEERS.COM</u>	<b>Phone and Fax:</b> <u>360-671-1146</u> <u>360-671-1169</u>
<b>PROJECT SITE INFORMATION</b> (address/location): <u>1215 SUGARWANTOWN AVE.</u> <u>OAK HARBOR, WA 98277</u>	<b>Comp. Plan Designation:</b> <u>HIGH DENSITY</u> <u>RESIDENTIAL</u>
<b>Zoning:</b> <u>MULTI-RES.</u>	<b>Parcel Number(s):</b> <u>R13203-110-1730</u>
<b>Legal Description</b> (attach separate sheet): <u>-SEE ATTACHED</u>	<b>Acreage of Original Parcel(s):</b> <u>5.57</u>
<b>Section/Township/Range:</b>	<b>Total Square Footage of Proposed Building or Number of Units:</b> <u>158</u>

**AUTHORIZATION:**

The undersigned hereby certifies that this application has been made with the consent of the lawful property owner(s) and that all information submitted with this application is complete and correct. False statements, errors, and/or omissions may be sufficient cause for denial of the request.

Sean Hegstad  
Authorized Signature

6.9.09  
Date

147

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APR 15 2010

Conditions for qualifying for a Variance

CITY OF OAK HARBOR  
Development Services Department

There are five criteria that must be met in order for a piece of property to qualify for a variance.

1. Are there any special conditions or circumstances that exist which are peculiar to the land such as size, shape, topography or location, that are not applicable to other lands in the same zoning district? Will the literal interpretation of the provisions of the Oak Harbor Municipal Code (OHMC) deprive the property owner of rights commonly enjoyed by other properties similarly situated in the same district?

DUE TO THE LOT SHAPE AND MORE IMPORTANTLY THE TOPOGRAPHY AT THE PROPERTY LINES HAVE A SIGNIFICANT SLOPE UP NEAR EXISTING ROADS. THE LITERAL INTERPRETATION WILL NOT ALLOW THE PROPERTY TO BE MAXIMIZED. THE PROJECT CAN ACHIEVE MAXIMUM DENSITY EVEN WITH A MAJOR ROAD THROUGH THE PROJECT.

2. Do the special conditions mentioned above result from actions of the applicant?

THE SITE CONTOURS AND ROAD REQUIREMENTS ARE BEYOND THE OWNERS CONTROL.

3. Will the granting of the variance amount to a rezone?

NO

4. Will the variance grant a special privilege to the subject property which is denied other lands in the same district?

NO

5. Will the granting of the variance be materially detrimental to the public welfare or injurious to the adjacent properties or improvements within the vicinity?

NO

June 3, 2009

Steve Powers  
Director of Development Services  
City of Oak Harbor  
865 SE Barrington Drive  
Oak Harbor, WA 98227

Re: Franklin Manor – Administrative Variance Request  
Location – 1215 Swantown Avenue – Oak Harbor, WA

RECEIVED  
At 2009  
CITY OF OAK HARBOR  
Development Services Department

Steve and City Staff:

The following is a request for variance for Franklin Manor, a condominium project that will be located along Swantown Avenue. We are requesting to increase allowable building height by five percent.

1. Site Plan – Building Site Plan

As stated within the Oak Harbor Design Regulations and Guidelines, "The basic principles of good site planning can be remembered with the acronym SAFE: Safe, Attractive, Fits the neighborhood, Efficient and useable."

**SAFE:** The proposed locations of the buildings allows for better visual control of lobby, other entries and parking areas. The increased building height does not create a less safe environment and actually increase safety with better spacing between buildings allowing better natural light and ventilation.

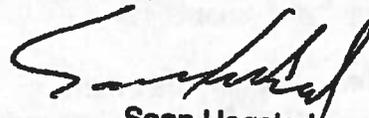
**ATTRACTIVE:** The proposed placement of buildings provides a more desirable experience for traffic passing by and for the residence. With the addition of a privacy fence/ wall along Swantown Avenue, the parked cars will be screened to reduce this potential undesirable effect. Much of the increased building height will be visually reduced due to the contours of the existing site. We were very careful to vary the building façade to better reduce the visual impact of the buildings.

**FITS IN THE NEIGHBORHOOD:** The buildings' style blends with the other multi-family housing in the area. The buildings will be lowered on the site to help reduce the appearance of height. There is a significant amount of variation in the building facades which further integrates as appropriate sense of scale with the surrounding buildings.

**EFFICIENT ANDS USEABLE:** The proposed building layout maximizes the useable space and parking areas/ By tucking the buildings towards the setbacks it allows for sufficient separation and adequate scaling of the buildings. As with any successful site plan careful attention to scale, spacing, open space, and parking is a must. Careful placement of trees, landscaping, and fencing/ walls also help to reduce the potential negative impacts. There are several items that significantly impact the site design that includes: site shape, new street through middle of site, street frontage locations, topography, and reduce space for building locations.

It is our belief that the building placement and building height provide many advantages to the local vicinity, the development and the client. We ask that you approve our variance requests based on the information provided and your professional experience.

Sincerely,



Sean Hegstad  
Architect

June 3, 2009

Re.: Franklin Manor – Height Increase Variance – Response  
Location – 1215 Swantown Avenue – Oak Harbor, Washington

To Whom It May Concern:

**1. Building height increase from Design Guidelines**

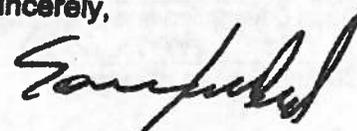
We are asking for a five percent increase in building height above the Average Natural Grade Level. This increase is 36'-9" from the standard 35'-0" to the midpoint of the highest gable of the roof.

**2. Narrative:**

Due to the nature of this site and more specifically the steep banks along some sides of the property it allows the client to increase the building height to still stay within the required height and does not require a standard variance. It was the clients' desire to provide more residential units with the least impact on the site and the neighboring properties we feel that this has very closely met both the client's project requests and stayed within the intent of the design guidelines. I have discussed this issue with Claire, formally from your department and she noted that we have a strong argument for this administrative variance.

The project team, after much discussion with the City Staff, feels that this request is both reasonable and supportable and would really appreciate your support.

Sincerely,



Sean Hegstad  
Architect



**CITY OF OAK HARBOR**  
**Development Services Department**

**Application Form**

**RECEIVED**  
**APR 19 2010**  
 CITY OF OAK HARBOR  
 Development Services Department

**Project Name:** FRANKLIN MANOR

**Type(s) of Application:** DESIGN REVIEW - PARKING LOCATION VARIANCE.

**Description of Proposal:**

<b>APPLICANT NAME/CONTACT PERSON</b> (or legal representative): <u>SEAN HEGSTAD</u> <u>HAVEN DESIGN WORKSHOP</u>	<b>Address:</b> <u>907 HARRIS AVE., #301</u> <u>BELLINGHAM, WA 98225</u>
<b>E-mail Address:</b> <u>SEAN@HAVEN-DW.COM</u>	<b>Phone and Fax:</b> <u>360)527-2840 360)527-2844</u>
<b>PROPERTY OWNER NAME</b> (list multiple owners on a separate sheet): <u>WINDMILL COURT LLC</u>	<b>Address:</b> <u>15015 MAIN ST., SUITE 203</u> <u>BELLEUE, WA 98007</u>
<b>E-mail Address:</b>	<b>Phone and Fax:</b> <u>425)748-2313 425)746-6595</u>
<b>ENGINEER/SURVEYOR:</b> <u>DOUG CAMPBELL</u> <u>APC ENGINEERS</u>	<b>Address:</b> <u>1901 ASTOR ST.</u> <u>BELLINGHAM, WA 98225</u>
<b>E-mail Address:</b> <u>DOUG@APCENGINEERS.COM</u>	<b>Phone and Fax:</b> <u>360)671-1146 360)671-1169</u>
<b>PROJECT SITE INFORMATION</b> (address/location): <u>1215 SW SWANTOWN AVE.</u> <u>OAK HARBOR, WA 98277</u>	<b>Comp. Plan Designation:</b> <u>HIGH DENSITY</u> <u>RESIDENTIAL</u>
<b>Zoning:</b> <u>MULTI-RES.</u>	<b>Parcel Number(s):</b> <u>R 13203-110-1730</u>
<b>Legal Description</b> (attach separate sheet): <u>- SEE ATTACHED</u>	<b>Acreage of Original Parcel(s):</b> <u>5.57</u>
<b>Section/Township/Range:</b>	<b>Total Square Footage of Proposed Building or Number of Units:</b> <u>159</u>

**AUTHORIZATION:**

The undersigned hereby certifies that this application has been made with the consent of the lawful property owner(s) and that all information submitted with this application is complete and correct. False statements, errors, and/or omissions may be sufficient cause for denial of the request

**Authorized Signature**

4.19.10

**Date**

Conditions for qualifying for a Variance

There are five criteria that must be met in order for a piece of property to qualify for a variance.

1. Are there any special conditions or circumstances that exist which are peculiar to the land such as size, shape, topography or location, that are not applicable to other lands in the same zoning district? Will the literal interpretation of the provisions of the Oak Harbor Municipal Code (OHMC) deprive the property owner of rights commonly enjoyed by other properties similarly situated in the same district?

THE SHAPE OF THE LOT STRONGLY DICTATES THIS PLACEMENT OF THE BUILDINGS AND PARKING. WE HAVE TRIED TO SEED THE PARKING AS MUCH AS POSSIBLE W/BUILDINGS AND WE HAVE PLACED A FENCE AND SOME LANDSCAPING TO HELP REDUCE THE AFFECT OF PARKED CARS.

2. Do the special conditions mentioned above result from actions of the applicant?

NO

3. Will the granting of the variance amount to a rezone?

NO

4. Will the variance grant a special privilege to the subject property which is denied other lands in the same district?

NO

5. Will the granting of the variance be materially detrimental to the public welfare or injurious to the adjacent properties or improvements within the vicinity?

NO

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APR 19 2010

CITY OF OAK HARBOR  
Development Services Department

**RECEIVED**

**AUG 24 2010**

**CITY OF OAK HARBOR  
Development Services Department**

August 23, 2010

**Re: Franklin Manor – Administrative Variance Request – Building “D” Location  
Location: 1215 Swantown Avenue, Oak Harbor, Washington**

**To Whom It May Concern:**

**The following is a request for variance for Franklin Manor, an apartment project that will be located along SW Swantown Avenue. We are requesting to place Building “D” as indicated on Site Plan SP1 for Final Site Plan PRD Approval.**

**1. Site Plan – Building Site Plan**

**As stated within the Oak Harbor Design Regulations and Guidelines, “The basic principles of good site planning can be remembered with the acronym SAFE: Safe, Attractive, Fits the neighborhood, Efficient and useable.”**

**SAFE: The proposed location of building “D” allows for better visibility of lobby, other entries, and parking areas. The alternate building location, that was once explored, would make for a continuous wall “barrier” of structures that extends nearly 400 feet, and creates a narrow corridor of approximately 70 feet between buildings.**

**ATTRACTIVE: The proposed placement of buildings provides a more desirable view of the complex for passers-by and for future residents. With the addition of a 3-foot “privacy” fence along SW Swantown Avenue, the parked cars will be partially screened to reduce any potential undesirable effect.**

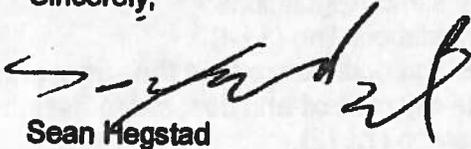
**FITS IN THE NEIGHBORHOOD: The project’s style blends with the other multi-family housing in the area. The buildings will be lowered on the site to help reduce the appearance of height. There is a significant amount of variation in the building facades, which further integrates an appropriate sense of scale.**

**EFFICIENT AND USEABLE: The proposed building layout maximizes the usable space and parking areas throughout the site. Tucking the buildings toward the setbacks allows for sufficient separation and adequate scaling of the buildings. As with any successful site plan, careful attention to scale, spacing, open space, and parking are all critical factors. Careful**

placement of trees, landscaping, play equipment and fencing will help reduce any potential negative impacts of the parking area. Several items significantly inform this site design: site shape, new street through middle of site, street frontage locations, and topography. These factors all necessitate a reduction of space and optimal building locations, requiring a creative approach to this site design.

It is our belief that placing building "D" along Swantown Avenue would have several negative effects on the overall site design. We ask that you approve our variance request based on the information provided and your professional experience and understanding.

Sincerely,



Sean Hegstad  
Architect, LEED AP

**RECEIVED**

**AUG 24 2010**

**CITY OF OAK HARBOR  
Development Services Department**

August 23, 2010

Re: Franklin Manor – Site Plan Variance – Response  
Location: 1215 SW Swantown Ave., Oak Harbor, Washington

To Whom It May Concern:

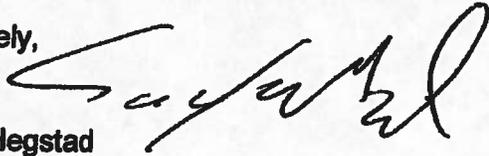
The following is a request for variance for Franklin Manor, an apartment project that will be located along SW Swantown Avenue. We are requesting to place Building "D" as indicated on Site Plan SP1 for Final Site Plan PRD Approval.

1. Variance Requested from Design Guidelines and Regulations:
  - a. Buildings shall be placed at the front setback line (1.i.4).
  - b. Orient buildings, entrances windows and activities to face the street (1.i.2).
  - c. Buildings should be designed for the city context and directed to the street not toward the neighbor or parking areas (1.i.12).
  - d. Parking for cars or garage doors should not front the street as much as practicable (1.iv.5).
  
2. Narrative In Regard to the Above List:
  - a. The main reasons for the location of Building "D" are the property shape and site orientation. Given the narrow point at the SE corner of the site, and the required public street through the middle of the site, the buildings would be forced to the outer extents of the property unless variance is granted. This placement does not require a re-zone, it will grant no special privileges, and will not be detrimental to the public, property, or improvements within the vicinity.
  - b. As stated in the variance request, placing the building along Swantown Avenue would create an excessively long façade, with two buildings creating a 400 foot stretch of buildings with a small 70 feet separation between the two, four story buildings.
  - c. The other three buildings maximize the street frontage as a much as possible given the shape of the lot and the public road that is required through the center of the property.
  - d. The placement of Building "D" and its associated parking and garages are located well away from SW Swanton Ave. The parking and play areas are 6 feet below SW Swantown Ave., and are further separated from the Avenue by a 3-foot fence.
  
3. Site Plan Explanation  
In addition to the Proposed Site Plan, we are submitting a copy of a Site Plan, "Option B," which illustrates how the site would look if the Variance is not

approved. In our opinion, the Requested Variance will best serve the overall look and feel of this project. "Option B" shows how the site would appear and how other site requirements would be affected if Building "D" were to be placed along the SW Swantown Avenue front setback. "Option B" would negatively affect the open space, parking, visibility, site appeal, etc. We feel that comparing our Proposed Site Plan with the one illustrated in "Option B" will help to clarify the complex issues affecting this site.

Thank you for your consideration in this matter.

Sincerely,



Sean Hegstad  
Architect, LEED AP



**RECEIVED**

**MAY 17 2010**

**CITY OF OAK HARBOR  
Development Services Department**

May 12, 2010

Re: 1215 SW Swantown Ave, Oak Harbor, WA (Windmill Court)

To Whom It May Concern:

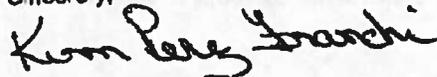
I currently reside in unit #45 at Windmill Court, and am not supportive of the proposal to tear down the park..

I have been a resident here since April 2010. My daughter and I moved here after being homeless for several months. Finding us a home here at Windmill Court was such a blessing. Though here for just a short time, we are extremely happy here. The manager's efforts here are extremely obvious, as it is a wonderfully peaceful place to live. Tearing down this park would leave not just us, but many other residents and employees homeless. As a single parent, this is not something I want my young daughter to experience again.

There are few places left in Oak Harbor where you can live and feel like you are with nature. Oak Harbor has been overrun with growth and population over the last ten years, and is quickly losing it's appeal regarding natural beauty. There are so few places remaining where squirrels, birds, and other wildlife creatures can settle into trees and green areas. Tearing down Windmill Court would displace not only the people who reside here, but also the animals that do as well.

There are not enough words in the English vocabulary to describe my d'sappointment with the owners of Windmill Court, and the City of Oak Harbor regarding this proposal. Removing this park and building city like structures, is a bad decision. If I wanted to live in a big city type of environment, I would move to Seattle.

Sincerely,



Kim Perez Franchi  
Windmill Court #45

Kristin Marie Senter  
1215 SW Swantown Avenue, #23  
Oak Harbor, WA 98277

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MAY 17 2010

May 13, 2010 CITY OF OAK HARBOR  
Development Services Department

City of Oak Harbor  
Development Services Department  
865 SE Barrington Drive  
Oak Harbor, WA 98277

Re: Franklin Manor Project Application  
Project location: 1215 SW Swantown Ave, parcel #R13203-110-1730

Dear City of Oak Harbor:

I am writing in disapproval of the above-referenced application.

There are numerous reasons for this but I will say the most significant of which would be that I feel that this proposal, if carried out, would be a detriment and a grave injustice to this particular piece of land and to the community at large.

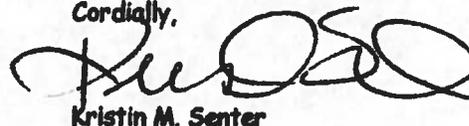
In my opinion, Oak Harbor is a relatively quiet, peaceful community when held up against neighboring communities of the world we live in; and many, if not all Oak Harbor residents, desire to live here for that very reason. This is not a place where we should encourage the building of high rises from out-of-town city dwelling landowners trying to score a few extra dollars without care or concern for the state of this community. I would venture to suppose they won't be writing anymore articles in the Smithsonian or National Geographic about what a wonderful place to live this is, if we allow this, other projects like this, or worse, to go forward.

This is a beautiful green piece of land here and it sickens me to think it shall soon be all paved over with concrete and asphalt.

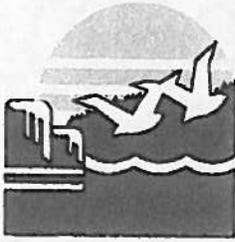
Before moving to this specific location myself, I had driven by many a time eyeing the place and saying to myself, "some day I'd like to live there". And that is because of the untouched landscape of grass and trees and the beauty of it all. Whether or not I resided here, I still would feel exactly the same way for I would be quite rightly horrified to drive by at another time and see parking lots and high rise buildings in it's place.

One letter from one concerned citizen may not make much of a difference in whether or not this action goes forward, but it's my first step in bringing to your attention that this is not a desirable endeavor and I will be proceeding to bring that more clearly to your attention through soliciting the voice of others of the same opinion as we attempt to rally through this. We were all very much blindsided by the public notice going up the other day in light of the fact that I speak to the property manager almost daily. I am not saying that the law requires it, but I am inclined to believe her when she says that she too was not aware or informed of these plans. We all just found out about it when the sign went up at the entrance.

Cordially,



Kristin M. Senter



# Island Transit

P.O. Box 1735 Coupeville, WA 98239

Phone: (360) 678-7771  
(360) 321-6688  
Fax: (360) 678-4353  
[www.islandtransit.org](http://www.islandtransit.org)  
[info@islandtransit.org](mailto:info@islandtransit.org)  
[vanpool@islandtransit.org](mailto:vanpool@islandtransit.org)

**RECEIVED**

**MAY 17 2010**

**CITY OF OAK HARBOR  
Development Services Department**

May 17, 2010

Lisa Bebee, Development Services Coordinator  
City of Oak Harbor  
865 SE Barrington Dr.  
Oak Harbor, WA. 98277

**RE: Bus Pullout Request Franklin Manor PRD Project**

Dear Lisa,

During this phase of the Franklin Manor PRD Project we recommend a bus pullout be incorporated for the south side of Swantown Street. Bus pullouts have always been a vital element to our public transportation system. They not only provide a safe comfortable place to enter and exit the bus, they also encourage the use of alternative transportation. Once these 158 units for multi-family living are constructed, the increase in the number of families will create a large influx of bus riders for Island Transit.

There is heavy traffic on Swantown Street. A bus pullout would not only keep the traffic flow intact it would provide a safe environment for riders and non-riders alike.

Thank you for your assistance and cooperation in this matter.

If you have any questions, please contact me at 678-7771, 1-800-240-8747, or e-mail.  
[Daniel@islandtransit.org](mailto:Daniel@islandtransit.org).

Sincerely,

Roy W. Daniel  
Operations Supervisor  
Island Transit

**RECEIVED**

**MAY 24 2010**

**CITY OF OAK HARBOR  
Development Services Department**

To:  
City of Oak Harbor  
Development Service Department  
865 SE Barrington Drive  
Oak Harbor, WA 98277

Subject:  
Franklin Manor PRD Project  
1215 SW Swantown Avenue  
Parcel: R13203-110-1730

**Questions:**

- Once complete, will Franklin Manor have the tallest buildings in Oak Harbor?
- Is there a building height restriction in the City of Oak Harbor?
- When will the phased in project plan start and end?

Request Notice of Decision for:  
Parcel R13203-110-1730  
Sight Plan SIT-10-02  
Transportation Concurrency TRC-10-05  
Landscape Plan PLN-10-06

From:  
Jeff and Donna Sperry  
2112 Fireside Lane  
Oak Harbor, WA 98277

MAY 24 2010

CITY OF OAK HARBOR  
Development Services Department  
Whidbey Classified • Wednesday, May 10, 2006

X PETTY JOHN  
2005  
COUNCIL  
LIVING IN A LOW IMPACT  
DEN.  
UN

**GALS**

**NOTICE TO EDITORS**

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON FOR ISLAND COUNTY  
In the Matter of the Estate of JERRY RICE, deceased.  
NO. 06-4-00068-4 PROBATE NOTICE TO CREDITORS RCW 11.40.030

A personal representative named below has been appointed as the personal representative of the estate of the decedent. Any person having a claim against the decedent at the time the decedent died, or any claim that would be barred by the statute of limitations, present the claim in writing to the personal representative or the personal representative's attorney at the address stated below on or before the date of the first publication of this notice. If the claim is presented within the time frame, the claim is not barred, except otherwise provided in RCW 11.40.051 and 11.40.060. This bar is not intended to affect the decedent's probate and non-probate assets.  
**DATE OF FIRST PUBLICATION: APRIL 2006**  
**PERSONAL REPRESENTATIVE:** John Rice  
**ATTORNEY FOR THE PERSONAL REPRESENTATIVE:** John Cohen  
**ADDRESS FOR MAIL:** 1000 Main Street, Suite 200, Oak Harbor, WA 98277  
LEGAL NO.: 4226  
Published: Whidbey News-Times, South Whidbey Record, May 26, May 3, 10, 17, 24, 31, 2006

youth organizations. The Committee determined that the most effective course of action for the City would be to directly engage the service providers to help identify the strengths and weaknesses of current services and ways they could be supported.  
**Scope of Work**  
It is expected that the consultant will meet with youth service providers servicing the City of Oak Harbor and interview them about their programs, contact information and needs and obtain copies of all data they organization possesses on youth in the community. From this, a full picture of what youth services are currently available and what providers need or want from the City and a full collection of data relating to youth in the community will be developed.  
Specific tasks to be performed by the consultant will include:  
Complete existing data from all of the various studies associated with local youth services and needs assessments. This information will include but is not limited to Healthy Youth Surveys prepared by the State of Washington, and studies and assessments prepared for the Island County Health Department and for the various youth service providers in the community.  
Obtain information and input from existing youth service providers regarding studies and assessments they have completed, their existing programs and their needs.  
Meet with both the existing Youth Council and Youth Advisory Board to obtain their perspective regarding youth programs and the needs of youth in the community.  
Develop a "master" list of service gaps from the compiled data.  
Consult with the youth service providers, the Youth Council and Youth Advisory Board to prioritize identified service gaps.  
Present findings and prioritized list to City Council.  
Create a data base of the various research which will serve as a

bars and contact people of two nonprofit organizations who have been your clients during the past 36 months, whom we can call on as references;  
Interviews with finalists will be held during the week of May 29, 2006.  
LEGAL NO.: 4258  
Published: Whidbey News-Times, South Whidbey Record, May 6, 10, 2006

**NOTICE OF APPLICATION**

**ISLAND COUNTY NOTICE OF APPLICATION with SEPA**

Island County has received the following applications for review. For each of the following applications, Island County has reviewed the proposed project for probable adverse environmental impacts and expects to issue a determination of non-significance (DNS). The optional DNS process established by WAC 197-11-355 is being used. Agencies, tribes and the public are encouraged to review and comment on the proposed project and its probable environmental impacts. The public comment period as described below may be the only opportunity to comment on the environmental impacts of the following proposals.  
File Number: 162/06  
**ENV**  
Applicant: Island County Noxious Weed Control Board  
Notice of Application: May 10, 2006  
Description of Proposal: Apply herbicide for control of Class B noxious weed species, Egeria densa. Application will occur within the aquatic shoreline designation. Location: Lone Lake Staff Contact: Matt Kukuk  
File Number: 028/06  
**SHE**  
Applicant: William & Susan Goodman  
Notice of Application: May 10, 2006  
Description of Proposal: Emergency repair consisting of a 50-foot extension to the existing bulkhead for protection of the existing single-family residence, within the Shoreline Residential shoreline designation.

tion files are available for inspection at no cost, and will be provided at the cost of reproduction in a timely manner. A copy of the final threshold determination(s) may be obtained upon request.  
**OPPORTUNITY FOR PUBLIC COMMENT:** Your written comments on the project are requested. Comments on environmental impacts must be received by 4:30 p.m. on May 24, 2006.  
Comments may be mailed to Island County Planning & Community Development, P.O. Box 5000, Coupeville, WA 98229; personally delivered to 6th & Main Street, Coupeville; or sent by facsimile to (360) 679-7308. Comments should be as specific as possible.  
**ADDITIONAL INFORMATION:** A copy of the final threshold determination is available upon written request. To request notice of hearings, or receive a copy of the decision or final threshold determination, mail written request to the before mentioned address. For information on appeal procedures, or any additional information, contact Island County Planning & Community Development by mail, in person, or by phone at (360) 679-7339, 321-5111, or 629-4522.  
LEGAL NO.: 4284  
Published: Whidbey News-Times, South Whidbey Record, May 10, 2006

**NOTICE OF APPLICATION**

**ISLAND COUNTY NOTICE OF APPLICATION with SEPA**

Island County has received the following applications for review. For each of the following applications, Island County has reviewed the proposed project for probable adverse environmental impacts and expects to issue a determination of non-significance (DNS). The optional DNS process established by WAC 197-11-355 is being used. Agencies, tribes and the public are encouraged to review and comment on the proposed project

logging road within a category A wetland and buffer, and upgrade an existing culvert that crosses a type-5 stream to provide access to the building site  
Location: R23028-052-2010, Classic Rd & Hwy 525, Greenbank  
Staff Contact: John Bertrand  
The proposal may include mitigation under applicable codes, and the project review process may incorporate or require mitigation measures regardless of whether an EIS is required.  
**FILES AVAILABLE FOR REVIEW:** The application files are available for inspection at no cost, and will be provided at the cost of reproduction in a timely manner. A copy of the final threshold determination(s) may be obtained upon request.  
**OPPORTUNITY FOR PUBLIC COMMENT:** Your written comments on the project are requested. Comments on environmental impacts must be received by 4:30 p.m. on May 24, 2006.  
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LEGAL NO.: 4284  
Published: Whidbey News-Times, South Whidbey Record, May 10, 2006

NU  
The polling places for this election are:  
Precinct, Location, Area, Code, District  
Aul, Oak Harbor Middle School, 160 SW 6th Ave., No. WI, 1, Comm. 3  
Duguala, Taylor Road Fire Station, 3440 Taylor Rd., No. WI, 9, Comm. 3  
Hillcrest, Oak Harbor Middle School, 160 SW 6th Ave., No. WI, 13, Comm. 3  
Penn Cove, Mail Ballot Precinct, Oak H, 19, Comm. 1  
Scenic Heights, Mail Ballot Precinct, Oak H, 24, Comm. 2  
Silver Lake, Taylor Road Fire Station, 3440 Taylor Rd., No. WI, 25, Comm. 3  
Swartown, Oak Harbor Middle School, 160 SW 6th Ave., Oak H, 27, Comm. 2  
Westview, Monroe Landing Fire Station, 1180 Monroe Lndng Rd., Oak H, 34, Comm. 1  
Highland, Taylor Road Fire Station, 3440 Taylor Rd., No. WI, 35, Comm. 3  
Countrywide, Taylor Road Fire Station, 3440 Taylor Rd., No. WI, 26, Comm. 3  
Poinell, Taylor Road Fire Station, 3440 Taylor Rd., No. WI, 42, Comm. 2  
Soundview, Taylor Road Fire Station, 3440 Taylor Rd., No. WI., 42, Comm. 3  
Fort Nugent, Monroe Landing Fire Station, 1180 Monroe Lndng Rd., Oak H, 43, Comm. 2  
West Beach, Monroe Landing Fire Station, 1180 Monroe Lndng Rd., Oak H, 44, Comm. 2  
Oak Harbor 1, Mail Ballot Precinct, Oak H, 104, Comm. 2  
Oak Harbor 2, Mail Ballot Precinct, Oak H, 105, Comm. 2  
Oak Harbor 3, Mail Ballot Precinct, Oak H, 106, Comm. 2  
Oak Harbor 4, Mail Ballot Precinct, Oak H, 107, Comm. 2  
Oak Harbor 5, Oak Hrb. School Admin. Bldg. 350 S Oak Harbor St., Oak H, 108, Comm. 2  
Oak Harbor 6, Mail Ballot Precinct, Oak H, 109, Comm. 2  
Oak Harbor 7, Oak Hrb. School Admin. Bldg. 350 S Oak Harbor St., Oak H, 110, Comm. 2  
Oak Harbor 8, Oak Hrb.

time announced for closing who have not voted and desire to do so, they shall be allowed to vote.  
Dated this 29th Day of March 2006.  
Suzanne Sholair  
Island County Auditor & Ex-Officio Supervisor of Elections  
LEGAL NO.: 4266  
Published: Whidbey News-Times, South Whidbey Record, May 10, 2006

**LEGAL HEADING**  
**SUBHEAD**  
**CALL FOR BID**  
Sealed proposals are hereby solicited for title reports on real property subject to tax foreclosure. Bids must be received by 3:00 p.m. on May 22, 2006 at the Office of the Island County Treasurer, 1 NE 7th St., Suite 111, PO Box 689, Coupeville, WA 98229. Specifications and bid forms may be obtained from the Island County Treasurer's office at (360) 879-7302  
Island County Treasurer  
LEGAL NO.: 4287  
Published: Whidbey News-Times, South Whidbey Record, May 10, 13, 2006

**NOTICE OF APPLICATION**  
**APPLICATION: SITE PLAN SIT-06-00006 - SUNRISE TOWNHOMES**  
**APPLICATION: Transportation Concurrence TRC-06-00011 - Sunrise Townhomes**  
**APPLICATION: SEPA checklist SEP-06-00009 - Sunrise Townhomes**  
**APPLICATION: Landscape Plan PLN-06-00009 - Sunrise Townhomes**  
**PROJECT PROPOSAL AND LOCATION**  
Site Plan SIT-06-00006 Transportation Concurrence TRC-06-00011, SEPA checklist SEP-06-00009 and Landscape Plan PLN-06-00009 are for the proposed new construction of 44 townhomes on 3.73 acres of buildings townhomes build nos 1

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**COPELAND DEAL NEARS**

As an example, the Copeland Lumber Yard parcel on NE 7th Avenue is reportedly under contract. This property has been offered for sale for more than five years and a local developer is now proposing a re-development of the entire property into a commercial or potentially mixed-use project. I also see that there are a number of recent commercial sales along Midway Boulevard and I understand that the Fiske vacant parcel at Midway and NE 4th Avenue is under contract.

It seems like there is only one large undeveloped commercial acreage parcel remaining in the local inventory along the prime SR 20 commercial corridor, between Midway Boulevard and Pioneer Way. Al Toth, a well-known local real estate broker and owner of Panorama Properties, has a 1.5 acre parcel on SR 20 for sale, which is situated across the street from McDonald's. Also, I see that John Chambers, of Colwell Banker-Koetje Real Estate, recently brokered the sale of an 800 acre forested property in the Green-

**HOUSING COOLS A BIT**

On the residential front, there are continuing signs that the housing market is cooling. On a national level, the Commerce Department announced that new housing starts fell 5.6 percent in October from September's seasonally adjusted rate and were about 2 percent below year ago levels. Further, the government reported that the number of new residential building permits issued, which are a good leading indicator for housing construction, also fell steeply. Home sales activity across the country has also slowed as mortgage interest rates have continued their steady upward climb. Locally it appears that the market has slowed somewhat from its previous torrid pace, but there are still many buyers looking for a home. In the last 60 days there were 100 home sales, and the 2005 average sale price rose slightly to \$245,549, according to Northwest Multiple Listing Service (NWMLS) data. The number of local home listings is up a bit, but far less than historical levels for this time of the year, while marketing time (i.e. DOM - for you previous readers) is holding steady at 58 days. I would expect the level of local home sales to experience some slowing as we enter this upcoming holiday season and winter. If history repeats itself, home sales will pick-up in the spring as long as the increase of interest rates remains at the Fed's declared "measured pace."

for past three years. A new es... room to provide more... for three years and it's... Montana said. ... will allow him to offer... and pilates and install an... area. ... on the other side of the... more people to his club. ... in... Health and Fit... to 200 people. ... be able to say when con... on the building until he... in the town.

**Charged just to cash a check**  
I would like the local people to know how I was treated recently by our local branch of Wells Fargo Bank. A local business wrote me a check that was drawn on Wells Fargo Bank. I went to the branch to cash it and was charged a fee. This is not fair. I am a local business and I should not be charged a fee to cash a check. I am writing this to let you know and to see if you can help me get this fee waived. Thank you.

Internet access, it's a... said Marc Silvestri, ...'s president and owner. ... information call 279-2210 ... line to www.localnet.

**In the effort find heroes**

In the American Red Cross, County Chapter and event or Whidbey Island Bank to heroes of Island County. ... are at Whidbey Banks in Island County, Red Cross office in Oak ... or online at at www. ... information: 7-2096.

**No public access to private land**  
Regarding the News-Times' February legal notice on Island County's Conservation Futures Program, I strongly question the inclusion of conserving open spaces as public access areas. Conservation districts promote conserving natural resources...

**HOLIDAYS!**

day and pick out your New... Whidbey Furniture has... Instant Guest Rooms" in stock... prices starting at \$679!

Dec 3 Sat

in, Nylon, Cotton and Microfiber... from contemporary...

Johnson buys... Nalley Company... PAZ WNT... Dec 3 2005

BRAC... Related... activity... early...

DEMOLITION BY NEGLECT MARCH 12 2010 WEL... GARDEN PLOTS MARCH 3 2010... 89 SLUGS 10th CONGRESSIONAL DISTRICT FEB 24 2010

EXAMINER... P12 WED MARCH 17 2010... PSE GREEN POWER CHALLENGE GRANT... NOTICE OF TRUSTEE'S SALE HARRINGTON

LOW IMPACT DEVELOPMENT #44 WENDHILL COURT

RECEIVE

EXHIBIT 10

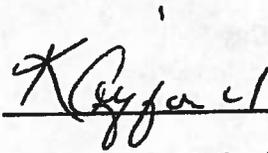


**CERTIFICATION OF NOTIFICATION  
OF PUBLIC HEARING**

I, Kathy Gifford, am the Development Services Administrative Assistant for the City of Oak Harbor. I certify under penalty of perjury under the laws of the State of Washington that:

1. On the 2nd day of September 2010, I provided written notice to the Whidbey News Times, via [legal@whidbeynewsgroup.com](mailto:legal@whidbeynewsgroup.com) regarding Hearing Examiner public hearing which is scheduled for the 24th day of September 2010; and

Signed this 7th day of September 2010, at Oak Harbor, Washington.

  
\_\_\_\_\_

Print Name: Katherine Gifford

Title: Admin Assistant

**CERTIFICATION OF POSTING  
PUBLIC HEARING NOTICES**

Oak Harbor Hearing Examiner  
865 SE Barrington Drive  
Oak Harbor, Washington 98277

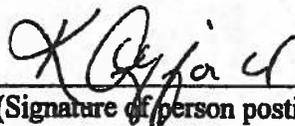
I, Katherine Gifford, certify under penalty of perjury under the laws of the State of Washington, that the following is true and correct:

That on the 7th day of September, 2009, I did post 3 notices (a copy of which is attached hereto and by reference made a part hereof) at the following locations:

- 1&2) Oak Harbor City Hall  
865 SE Barrington Drive  
Oak Harbor, WA 98277
  
- 3) Library  
1000 East Regatta Drive  
Oak Harbor, WA 98277

advertising a public hearing for FRANKLIN MANOR – SIT-10-02, PLN-10-04, PLN-10-06, VAR-10-02, VAR-10-03 before the Oak Harbor Hearing Examiner on September 24, 2010

Executed this 7th day of September, 2010, in Oak Harbor, Washington.

  
\_\_\_\_\_  
(Signature of person posting)

**NOTICE OF PUBLIC HEARING  
OAK HARBOR HEARING EXAMINER  
HE #09-24-10**

Notice is hereby given that a public hearing will be held before the City of Oak Harbor Hearing Examiner in the Council Chambers at City Hall, 865 SE Barrington Drive, on Friday, September 24th at 10:00 a.m., or as soon thereafter as possible, to consider the following item:

**FRANKLIN MANOR – SIT-10-02, PLN-10-04, PLN-10-06, VAR-10-02, VAR-10-03**

The Hearing Examiner will consider a planned residential development (PRD), site plan, landscape plan, and two administrative variances for a proposal to construct 158 units for multi-family living on 5.57 acres. The project location is 1215 SW Swantown Avenue, parcel #R13203-110-1730. There will be four four-story buildings containing 33-44 units each. This will be a phased project. The existing buildings, mobile homes, septic tanks and well will either be removed or abandoned. The Hearing Examiner will make a final decision on this matter.

Anyone wishing to comment on the above items or provide other relevant information may do so in writing or appear in person before the Hearing Examiner at the time and place of said public hearing. After obtaining public input and considering the matter, the Hearing Examiner may approve or deny the proposed application. As part of the approval, conditions or limitations may be imposed.

For additional information, you may contact the City Department of Development Services at City Hall, or call (360) 279-4521.

All meetings of the Hearing Examiner are open to the public.

Published Whidbey News Times  
September 8, 2010



September 3, 2010

**NOTICE TO ADJACENT PROPERTY OWNERS OF PUBLIC HEARING  
OAK HARBOR HEARING EXAMINER  
HE #09-24-10**

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All meetings of the Hearing Examiner are open to the public.



Summerwind Condos  
31640 SR 20, Ste. 1  
Oak Harbor, WA 98277

Joseph A. Andreacchio  
1162 SW Fort Nugent Ave.  
Oak Harbor, WA 98277

Oak Harbor Retirement Comm. L.L.C.  
1040 SW Kimball Dr.  
Oak Harbor, WA 98277

Summerwinds Ventures L.L.C.  
31640 SR 20, Ste. 1  
Oak Harbor, WA 98277

Todd A. & Judy K. Werner  
1460 SW 16th Ave.  
Oak Harbor, WA 98277

Ralph D. Lockwood  
1691 SW Nienhuis St.  
Oak Harbor, WA 98277

Dennis Faber  
2052 SW Dillard Lane  
Oak Harbor, WA 98277

Edgar R. Martinez  
P.O. Box 2374  
Oak Harbor, WA 98277

Ted E. Boesch  
1675 Nienhuis St.  
Oak Harbor, WA 98277

Joseph L. & Jean T. Wieman  
1640 SW Nienhuis St.  
Oak Harbor, WA 98277

Thuy N. Sayco  
c/o Churchill Rentals  
PO Box 1696  
Oak Harbor, WA 98277

Serloyd L. Carter  
1480 SW 16th Ave.  
Oak Harbor, WA 98277

David A. Whittaker  
5831 Goodland Ave  
North Hollywood, CA 91607

Michael W. Wright  
1279 SW Barrington Dr.  
Oak Harbor, WA 98277

Cynthia L. & Arlene Gloria  
1780 SW Nienhuis St.  
Oak Harbor, WA 98277

Forrest I. Berry Jr.  
1192 SW Fort Nugent Ave.  
Oak Harbor, WA 98277

Milagros Cecilia Morris  
1655 SW Nienhuis St.  
Oak Harbor, WA 98277

Diann E. Duvenez  
2122 Fireside Lane  
Oak Harbor, WA 98277

Vinton Mac Hutton  
14785 Manor. PL  
Fontana, CA 92336

Craig & Sandra J. Devonshire  
1625 SW Nienhuis St.  
Oak Harbor, WA 98277

Eugene R. Koom  
1771 SW Nienhuis St.  
Oak Harbor, WA 98277

James D. Lewis  
1660 SW Nienhuis St.  
Oak Harbor, WA 98277

Evan M. Hodges  
23 Sai Pan CT.  
Pensacola, FL 32506

Joybert D. Rivera  
1725 SW Nienhuis St.  
Oak Harbor, WA 98277

Kenneth W. Yakle  
1684 SW Nienhuis St.  
Oak Harbor, WA 98277

Jared W. Hyde  
2118 Fireside Lane  
Oak Harbor, WA 98277

Mark J. Kurtovich  
2130 Fireside LN  
Oak Harbor, WA 98277

James T. Grimshaw  
241 SE Oleary St.  
Oak Harbor, WA 98277

Jefferey A. Sperry  
2112 Fireside Lane  
Oak Harbor, WA 98277

Dale F. Pollit  
1515 SW 16th Ave.  
Oak Harbor, WA 98277





Puget Sound Energy  
P.O. Box 90868  
Bellevue WA, 98009

Daniel T. & Mary E. Schief  
2110 Fireside Lane  
Oak Harbor, WA 98277

Yosemite Management Group  
P.O. Box 650  
El Portal, CA 95318

Waldron Construction Inc.  
31640 State Route 20, Ste. 1  
Oak Harbor, WA 98277

Edouard D. Richard  
23171 Whistlewood Lane  
California, MD 20619

Chas/Frederick L. Webster Sr.  
3649 Lofberg St.  
San Diego CA 92124

Jack E. & Patricia L. Christian  
1624 Carlton Way  
Oak Harbor, WA 98277

John M. Pendleton  
1530 SW 17th Ave.  
Oak Harbor, WA 98277

Ronald Wolfe  
2722 Benton Place  
Oak Harbor, WA 98277

Eugene R. Koom  
1771 SW Nienhuis St.  
Oak Harbor, WA 98277

Denise M. Suarez  
1520 SW 17th Ave.  
Oak Harbor, WA 98277

Kim Perez Franchi  
1215 SW Swantown Ave. #45  
Oak Harbor, WA 98277

Colleen Johnson  
P.O. Box 585  
Oak Harbor, WA 98277-0585

Yosemite Management Group L.L.C.  
4999 Highway 140  
Mariposa, CA 95338

Kristin Marie Senter  
1215 SW Swantown Ave. #23  
Oak Harbor, WA 98277

Mary Ellen Mozes  
1215 SW Swantown Ave. #44  
Oak Harbor, WA 98277



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UB Account

File Edit Record Navigate Fgm Record Forget Job Help

Main Customers | History | Fee | Inventory and Routes | groups

UB acct # **00125457** Service location **1740 SW NIENHUIS ST OAK HARBOR WA 98277** Balance **153.69** Group on account **0.00**  
 Name **CASSANDRA-MARIE JENKINS** Status **1** # accounts **1**

Role	Resp	First Name	Suffix	Last Name	Suffix	Customer #
owner				SAYCO/CHURCHILL RENTAL		00125457
						0.00
						0.00

PO BOX 1696  
OAK HARBOR WA 98277  
(360) 676-0715

Print  **CASSANDRA-MARIE JENKINS** 00166909  
 Bill print Care of **1740 SW NIENHUIS ST OAK HARBOR WA 98277** On account **0.00**  
 Past due Address **1740 SW NIENHUIS ST OAK HARBOR WA 98277** Balance due **153.69**  
 Shutoff  Cash only  
 Home phone **(360) 969-9650** Work phone  
 Use autopay  No ABA #  Private date   
 Acct type  Acct #   Unit  
 Customer type

GoldStandard | Record 27 of 27

UB Account

File Edit Record Navigate Fgm Record Forget Job Help

Main Customers | History | Fee | Inventory and Routes | groups

UB acct # **00126021** Service location **2028 N BRYAN DR OAK HARBOR WA 98277** Balance **130.04** Group on account **0.00**  
 Name **BLAINE FLORA RIES** Status **1** # accounts **1**

Role	Resp	First Name	Suffix	Last Name	Suffix	Customer #
owner		CHAS/FREDRICK		WEBSTER		00126021
						0.00
						0.00

3849 LOPFERS ST  
SAN DIEGO CA 92124  
(360) 640-9526

Print  **BLAINE FLORA RIES** 00151654  
 Bill print Care of **2028 N BRYAN DR OAK HARBOR WA 98277** On account **0.00**  
 Past due Address **2028 N BRYAN DR OAK HARBOR WA 98277** Balance due **130.04**  
 Shutoff  Cash only  
 Home phone **(360) 929-1286** Work phone  
 Use autopay  No ABA #  Private date   
 Acct type  Acct #   Unit  
 Customer type

Enter the UB account number. | GoldStandard | Record 9 of 9

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September 3, 2010

Roy W. Daniel  
Operations Supervisor  
Island Transit

Re: Notice of Public Hearing and Response to Public Comment

Dear Mr. Daniel,

Thank you for your comments on the proposed project. Staff would like to inform you that a bus stop along the southern side of Swantown Road has been incorporated into the proposed plans. A bus stop rather than a bus pullout was recommended by city engineering staff due to the functional classification of Swantown Road.

Notice is hereby given that a public hearing will be held before the City of Oak Harbor Hearing Examiner in the Council Chambers at City Hall, 865 SE Barrington Drive, on Friday, September 24th at 10:00 a.m., or as soon thereafter as possible, to consider the following item:

**FRANKLIN MANOR - SIT-10-02, PLN-10-04, PLN-10-06, VAR-10-02, VAR-10-03**

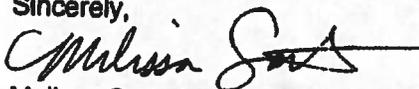
The Hearing Examiner will consider a planned residential development (PRD), site plan, landscape plan, and two administrative variances for a proposal to construct 158 units for multi-family living on 5.57 acres. There will be 4 buildings containing 33-44 units in each. The buildings will be 4 stories and will have 5-6 garages on the ground level and an elevator in each building. The will be a phased project. The existing buildings, mobile homes, septic tanks and well will either be removed or abandoned. The project location is 1215 SW Swantown Avenue, parcel #R13203-110-1730. The Hearing Examiner will make a final decision on this matter.

Anyone wishing to comment on the above items or provide other relevant information may do so in writing or appear in person before the Hearing Examiner at the time and place of said public hearing. After obtaining public input and considering the matter, the Hearing Examiner may approve or deny the proposed application. As part of the approval, conditions or limitations may be imposed.

For additional information, you may contact the City Department of Development Services at City Hall, or call (360) 279-4521.

All meetings of the Hearing Examiner are open to the public.

Sincerely,

  
Melissa Sartorius, Associate Planner  
City of Oak Harbor

# **ATTACHMENT B**

**Hearing Examiner Findings of Fact, Conclusions of  
Law and Decision, October 6, 2010**

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**ATTACHMENT B**

CITY OF OAK HARBOR  
HEARING EXAMINER

RE: Site Plan Review ) SIT-10-02  
Planned Residential Development ) PLN-10-04  
Planned Residential Development ) PLN-10-06  
Administrative Variance ) VAR-10-02  
Administrative Variance ) VAR-10-03  
Application for )  
)  
*Franklin Manor Project* ) FINDINGS OF FACT,  
) CONCLUSIONS OF LAW,  
) AND RECOMMENDATION

---

**SUMMARY OF APPLICATION AND RECOMMENDATION**

**Application:** The application is to consider a Planned Residential Development (PRD), Site Plan Review, Landscape Plan, and two Administrative Variances for a proposal to construct 158 units for multi-family apartment living on 5.57 acres. There will be four four-story buildings containing 33-44 units each. This will be a phased project. The existing buildings, mobile homes, septic tanks and well will either be removed or abandoned.

**Recommendation:** The Hearing Examiner for the City of Oak Harbor recommends that the Oak Harbor City Council approve the proposed development and grant the necessary permits, subject to the Conditions of Approval recommended by the Development Services Department of the City of Oak Harbor.

**FINDINGS OF FACT**

**INTRODUCTION**

The following Findings of Fact and Conclusions of Law are based upon consideration of the exhibits admitted herein and evidence presented at the public hearing.

**I.**

**Applicant/Agent:** Sean Hegstad, Architect

**Property Owner:** Windmill Court, L.L.C.

Address of Proposal: 1215 SW Swantown Avenue  
Oak Harbor, WA 98277

Parcel Number: R13203-110-1730

Comprehensive Plan Designation: High Density Residential

Zoning Designation: R-4, Multi-Family Residential

Application Presented for Action:

Planned Residential Development (PLN-10-04, PLN -10-06)-Review Process IV

Site Plan Review (SIT-10-02) – Review Process IV

Administrative Variances (VAR-10-02, VAR-10-03)

SEPA Determination: A Mitigated Determination of Non-significance was issued under SEPA, on March 18, 2010. This Determination was not appealed.

Hearing Date: September 24, 2010

Parties of Record:

Windmill Court, L.L.C.  
15015 Main Street, Ste 203  
Bellevue, WA 98007

Sean Hegstad  
Haven Design Workshop  
907 Harris Ave. Ste 301  
Bellingham, WA 98225

Jean Wieman  
1640 SW Nienhuis Street  
Oak Harbor, WA 98277

Melissa Sartorius  
Associate Planner City of Oak Harbor

Exhibits:

- 1 Staff Report
  - 1-1 Site Plan SPI, dated 9/15/10 and Narrative dated 6/30/10
  - 1-2 Aerial Photo of Site

- 1-3 Site Plan Application Packet dated 4/15/10
- 1-4 Open Space Plan SP2 dated 9/15/10
- 1-5 Landscaping Plan L-1, L-2, L-3, L-4, L-5, L-6, and L-7 dated 9/15/10
- 1-6 Building Elevations A1 & A2 dated 8/24/10 and Simulations dated 6/30/10
- 1-7 Trash Enclosure & Compactor Details, Sign Detail, Playground Detail, and Lighting Details and Analysis
- 1-8 Mitigated Determination of Nonsignificance dated 8/18/10
- 1-9 Administrative Variances dated 8/24/10
- 1-10 Public Comment Letters
- 1-11 Public Noticing Documents

## II.

The Applicants are requesting approval of a Planned Residential Development, Site Plan Review, Landscape Plan, and two Administrative Variances. The requested approvals are required for their proposed construction of 158-apartment units on a 5.57-acre parcel. The proposal will result in four, four-story apartment buildings, containing 34 units to 44 units each. The Applicants propose to phase the development. The existing buildings, mobile homes, septic tanks, and well will be either removed or properly abandoned.

## III.

On December 7, 2007, the Hearing Examiner conducted a public hearing on a proposed 152-unit condominium project for this proposal. At the end of the hearing, the record was left open so that the Applicants could pursue an agreement with the City related to required transportation impact fees. The matter was never re-opened for public hearing and no final recommendation from the Hearing Examiner to the City Council was requested. A new Site Plan Review and Planned Residential Development proposal is required for this modified proposal.

The Development Services Department for the City of Oak Harbor has thoroughly reviewed the proposed development and has concluded that the project, subject to the Conditions of Approval recommended by the Development Services Department in their Staff Report, dated September 24, 2010, meets the requirements for Site Plan Review Approval, Planned Residential Development Approval, and Approval of the requested Variances. The Hearing Examiner for the City of Oak Harbor has reviewed all of the exhibits submitted into the record, completed a site inspection, and conducted a public hearing on the matter on September 24, 2010.

The Applicant's Agent indicated that the facts set forth in the Staff Report, subject to minor revisions proposed at the hearing, were accurate. The Applicant indicated no objection to the proposed Conditions of Approval.

The Factual Findings set forth in the Staff Report, as modified, are supported by the record as a whole and are hereby adopted by the Hearing Examiner. A copy of the Staff Report is attached hereto and incorporated herein by this reference.

### III.

Five written comments were received after the Notice of Application was published and mailed. Staff addressed the comments in the staff report.

One of the concerns was from a resident who lives in one of the manufactured homes which will be ultimately displaced by the proposed multi-family residential complex. She expressed understandable dismay at losing her current residence.

Another was from a citizen who felt "high rises" like the buildings proposed are inappropriate for Oak Harbor and that the project will destroy what is currently a nice piece of land.

Island Transit commented on the need for pull-out bus stop. One is provided for in the street improvements required.

Additionally, testimony was taken at the public hearing from a citizen who owns an adjacent parcel. She testified that traffic already exceeds the current capacity of Swantown Avenue and that the City cannot handle the additional growth and impacts from a multi-family residential development such as the one proposed. She also pointed out that she would be greatly affected by the building construction, which is to take place over an extended period of time, since it is a phased project.

The Hearing Examiner acknowledges that there will be adverse impacts on the residents who currently live on the site in the existing manufactured home park and on surrounding property owners in the immediate vicinity of the project. However, none of the issues raised in the citizen concerns addressed whether or not this proposal is consistent with the Comprehensive Plan for the City of Oak Harbor and with the applicable development regulations set forth in the Oak Harbor Municipal Code.

### IV.

Any Conclusion of Law which is deemed a Finding of Fact is hereby adopted as such. Based on the foregoing Findings of Fact, now are entered the following

#### **CONCLUSIONS OF LAW**

##### I.

Under the Oak Harbor Municipal Code, OHMC 18.20.220(2), applications that involve two or more procedures, and are assigned to different Hearing Bodies, are to be processed collectively under the highest numbered classification required for any part of the application. For this proposal, the project application is a Type IV Site Plan Review, a Type IV Planned Residential Development Application, and contains two requested Variances.

In the case of this project, final authority to rule on the requested Site Plan Review

Approval, Planned Residential Development, and Variances is with the City Council, after a public hearing conducted by the Hearing Examiner, and a Recommendation from the Hearing Examiner to the Council.

**II.**

All of the required public notices have been given. Pursuant to the procedures applicable to this proposal, the Hearing Examiner for the City of Oak Harbor has conducted a hearing, reviewed the record, and conducted a site inspection.

**III.**

The Development Services Department for the City of Oak Harbor concluded that, subject to their recommended Conditions of Approval, the proposal would meet the requirements for a Planned Residential Development, a Site Plan Review Approval, and the requested Variances.

The Hearing Examiner concurs in the conclusions reached by the Development Services Department. The application is consistent with the Comprehensive Plan for the City of Oak Harbor and with all of the requirements and development regulations applicable to the project.

The Hearing Examiner concludes that the required approvals should be granted by the Oak Harbor City Council, subject to the Conditions of Approval recommended by Staff in the attached Staff Report.

**IV.**

Any Finding of Fact deemed to be a Conclusion of Law is hereby adopted as such. Based on the foregoing Findings of Fact and Conclusions of Law, now is entered the following

**RECOMMENDATION**

*The Hearing Examiner for the City of Oak Harbor recommends that the Oak Harbor City Council grant Planned Residential Development, PLN-10-04, PLN-10-06, Site Plan Review, SIT-10-02, and VAR-10-02, VAR-10-03, approval to Windmill Court, L.L.C. for the proposed phased Franklin Manor Project, at 1215 SW Swantown Avenue, Oak Harbor, Washington, subject to the following Conditions of Approval:*

- 1. Approval of the Site Plan requires general conformance to the submitted exhibits. These exhibits include: Site Plan Sheets SP1 & SP-2 dated 8/24/10, Landscape Plans L-1, L-2, L-3, L-4, L-5, L-6, and L-7 dated 8/24/10; and Building Elevations A1 and A2 dated 8/24/10. Minor modifications may be permitted subject to approval by the City of Oak Harbor (OHMC 19.48.090).*
- 2. All of the mitigation measures identified in the Applicant's SEPA checklist as dated June 18, 2010 and all mitigation measures listed in the MDNS issued August 18, 2010 shall be*

*implemented.*

3. *Transportation Concurrency fees must be paid at the time of issuance of building permits (OHMC 3.63.065). Forty-two mobile home units shall be subtracted from the 158 new units for a total payment of \$105,212. The transportation impact fee credit for existing units shall only be applied for the actual number of existing mobile home units removed at the time of the issuance of each building permit.*
4. *Neighborhood and Community Park Impact Fees shall be paid at the time of issuance of the building permit (per unit) (OHMC 3.63.030).*
5. *The administrative variance from the Design Guidelines and Regulations 1.i.4, 1.i.2, 1.i.12, and 1.iv.5 shall only apply to Building D.*
6. *All septic systems must be removed or terminated according to Island County Department of Health Standards. If the well is to be abandoned, it must be done per State Department of Ecology requirements. If it is not to be abandoned, well setback radii need to be observed.*
7. *The right-of-way easement for SW Mulberry Place must be signed by the applicant prior to civil plan approval [19.48.037(4)(f)].*
8. *All easements described in the application materials must be written, approved by the City and recorded prior to occupancy of the first permitted building [19.48.037(4)(f)]. Bill of sale paperwork for public improvements must be completed as part of the ownership transference process prior to occupancy.*
9. *All public and private improvements will need to be completed during Phase I as shown on the plan before a certificate of occupancy may be issued (OHMC 19.90.020). This includes, frontage improvements to SW Mulberry Place and SW Swantown Avenue, landscaping for Phase I, parking for Buildings C & D, Fire Department access and turn-around, fire hydrant, pedestrian connection to the street, and compactor installation. Exposed soils in Phase II or in any other exposed areas on-site must be stabilized according to Best Management Practices of the DOE Stormwater Manual.*
10. *Project phasing shall be clearly indicated on the civil engineering plans and shall include a sequence of construction work including but not limited to: clearing and grading, utility installation and connections, road construction, implementation of any wellhead protection requirements per Federal, State, and County regulations, well abandonment, septic abandonment, and building construction. [OHMC 19.48.037(6)].*
11. *All landscaping shall be irrigated [OHMC 19.46.040(7)]. An irrigation plan shall be submitted prior to civil plan approval.*
12. *All project (i.e. Franklin Manor) signs will require a sign permit [19.48.035(2)(h)].*

13. *The stormwater system and utility coordination for the Project shall be subject to the DOE Technical Manual, to Best Management Practices, and shall be subject to review and approval by the City (OHMC 12.30.310).*
14. *Submittal of mylar "as-built" drawings stamped and signed by the project engineer is required prior to acceptance of public improvements. A maintenance surety of no less than 10% of the final construction costs for all public improvements is required prior to occupancy (OHMC 19.90.030).*
15. *An automatic sprinkler system installed in accordance with Section 903.3 shall be provided through-out all buildings with a Group R fire area. IFC 903.2.7*
16. *An approved water supply capable of supplying the required fire flow for fire protection shall be provided to premises upon which facilities, buildings or portions of buildings are hereafter constructed or moved into or within the jurisdiction. IFC 508.1*
17. *Fire hydrants shall be installed as per fire flow and spacing requirements specified for the type of development and in accordance with the Fire Department specifications. Chapter 6 of the Fire Protection Features.*
18. *Dead-end fire department access roads in excess of one hundred and fifty 150 feet long shall be provided with approved turn around provocations. Chapter 6 City Fire Protection Features. Marked turn-around areas must be sufficiently delineated to show the turn-around. The proposed locations at the A and D buildings is acceptable. Signage and/or stripping are required.*
19. *The fire department requires ATB or the final lift of asphalt be installed prior to combustibles on site. (IFC 501.4)*
20. *Submit two (2) sets of fire alarm and fire sprinkler system plans to the fire department for review and approval. (IFC 901.2)*

#### **NOTICE**

This approval is subject to all of the above-stated conditions. Failure to comply with them may be cause for enforcement action pursuant to OHMC 19.100. Complaints regarding a violation of the conditions of this permit should be filed with the City of Oak Harbor Development Services Department.

DATED this 6<sup>th</sup> day of October 2010.

Michael Bobbink  
Michael Bobbink, Hearing Examiner

# **ATTACHMENT C**

## **Findings of Fact, Conclusions of Law and Decision of Council**

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**ATTACHMENT C**

**BEFORE THE CITY OF OAK HARBOR CITY COUNCIL  
STATE OF WASHINGTON**

In Re	Application No. PLN 10-04	)	FINDINGS OF FACT
	PLN 10-06	)	CONCLUSIONS OF LAW
	SIT 10-06	)	AND DECISION OF
	VAR 10-02	)	CITY COUNCIL
	VAR 10-03	)	

Franklin Manor Planned Residential Development, Site Plan, and Administrative Variances.

THIS MATTER came before the City Council upon the application of Haven Design Workshop on behalf of the property owner for a Planned Residential Development (PRD), Site Plan, and Administrative Variances. Having considered the evidence in the record, heard the arguments of the parties and any public comment, and being fully advised in the premises, the City Council hereby enters the following findings of fact, conclusions of law, and decision:

**Findings of Fact**

1. An application for a Planned Residential Development, Site Plan, and Administrative Variances was filed with the Department of Development Services and deemed complete by the Director on April 29, 2010.
2. The permit sought by applicant is for 158 multi-family residential apartment units on 5.57 acres at 1215 SW Swantown Avenue which is located within the City boundaries.
3. A Notice of Application was published in the Whidbey News Times, the newspaper of local circulation on May 8, 2010. Posting of the project site occurred on May 7, 2010. Property owners within 300 feet of the project were notified by mail on May 5, 2010.
4. The applicant submitted an environmental checklist pursuant to the State Environmental Policy Act on April 15, 2010.
5. Based upon the information submitted by the applicant, the SEPA official for the City issued a mitigated determination of non-significance on August 18, 2010.
6. The mitigated determination of non-significance was published in the Whidbey News Times on August 18, 2010. The comment period ended on September 1, 2010 and the appeal period ended on September 17, 2010. No comments were received nor were any appeals filed.
7. The project received a Certificate of Transportation Concurrency on September 13, 2010.
8. Notice of the hearing before the Hearing Examiner was advertised in the Whidbey News Times on September 8, 2010. Posting of the project site for the public hearing occurred on September 10, 2010. Property owners within 300 feet of the project were notified by mail on September 3, 2010.
9. The Hearing Examiner conducted a public hearing on September 24, 2010. Public testimony was received in an open record public hearing and the Hearing Examiner recommended approval subject to conditions to the City Council.
10. Notice of the hearing before the City Council was published in the Whidbey News Times on October 2, 2010. Posting of the project site for the City Council public hearing occurred on September 30, 2010. Property owners within 300 feet of the project were notified by mail on October 1, 2010.

### Conclusions of Law

1. The City Council has jurisdiction to determine whether to approve this project pursuant to OHMC 18.20.220(3) and 19.31.
2. Proper notice of all hearings, comment periods and appeal periods was given.
3. A single open record hearing on the permit application was held before the Hearing Examiner.
4. No appeal of the mitigated determination of non-significance was timely filed.
5. The permit application meets the goals, policies, and regulations of the City's Comprehensive Plan and municipal code.
6. The City Council decision regarding the permit application was reached after a single closed record review of the Hearing Examiner's recommendation. Said review was conducted in a public hearing held by the City Council on October 19, 2010.

### Decision

Based upon the foregoing findings of fact and conclusions of law, the City Council hereby grants approval of the Franklin Manor Planned Residential Development, Site Plan, and Administrative Variances subject to the following conditions:

1. Approval of the Site Plan requires general conformance to the submitted exhibits. These exhibits include: Site Plan Sheets SP1 & SP-2 dated 8/24/10, Landscape Plans L-1, L-2, L-3, L-4, L-5, L-6, and L-7 dated 8/24/10; and Building Elevations A1 and A2 dated 8/24/10. Minor modifications may be permitted subject to approval by the City of Oak Harbor (OHMC 19.48.090).
2. All of the mitigation measures identified in the Applicant's SEPA checklist as dated June 18, 2010 and all mitigation measures listed in the MDNS issued August 18, 2010 shall be implemented.
3. Transportation Concurrency fees must be paid at the time of issuance of building permits (OHMC 3.63.065). Forty-two mobile home units shall be subtracted from the 158 new units for a total payment of \$105,212. The transportation impact fee credit for existing units shall only be applied for the actual number of existing mobile home units removed at the time of the issuance of each building permit.
4. Neighborhood and Community Park Impact Fees shall be paid at the time of issuance of the building permit (per unit) (OHMC 3.63.030).
5. The administrative variance from the Design Guidelines and Regulations 1.i.4, 1.i.2, 1.i.12, and 1.iv.5 shall only apply to Building D.

6. All septic systems must be removed or terminated according to Island County Department of Health Standards. If the well is to be abandoned, it must be done per State Department of Ecology requirements. If it is not to be abandoned, well setback radii need to be observed.
7. The right-of-way easement for SW Mulberry Place must be signed by the applicant prior to civil plan approval [19.48.037(4)(f)].
8. All easements described in the application materials must be written, approved by the City and recorded prior to occupancy of the first permitted building [19.48.037(4)(f)]. Bill of sale paperwork for public improvements must be completed as part of the ownership transference process prior to occupancy.
9. All public and private improvements will need to be completed during Phase I as shown on the plan before a certificate of occupancy may be issued (OHMC 19.90.020). This includes, frontage improvements to SW Mulberry Place and SW Swantown Avenue, landscaping for Phase I, parking for Buildings C & D, Fire Department access and turn-around, fire hydrant, pedestrian connection to the street, and compactor installation. Exposed soils in Phase II or in any other exposed areas on-site must be stabilized according to Best Management Practices of the DOE Stormwater Manual.
10. Project phasing shall be clearly indicated on the civil engineering plans and shall include a sequence of construction work including but not limited to: clearing and grading, utility installation and connections, road construction, implementation of any wellhead protection requirements per Federal, State, and County regulations, well abandonment, septic abandonment, and building construction. [OHMC 19.48.037(6)].
11. All landscaping shall be irrigated [OHMC 19.46.040(7)]. An irrigation plan shall be submitted prior to civil plan approval.
12. All project (i.e. Franklin Manor) signs will require a sign permit [19.48.035(2)(h)].
13. The stormwater system and utility coordination for the Project shall be subject to the DOE Technical Manual, to Best Management Practices, and shall be subject to review and approval by the City (OHMC 12.30.310).
14. Submittal of mylar "as-built" drawings stamped and signed by the project engineer is required prior to acceptance of public improvements. A maintenance surety of no less than 10% of the final construction costs for all public improvements is required prior to occupancy (OHMC 19.90.030).
15. An automatic sprinkler system installed in accordance with Section 903.3 shall be provided through-out all buildings with a Group R fire area. IFC 903.2.7
16. An approved water supply capable of supplying the required fire flow for fire protection shall be provided to premises upon which facilities, buildings or portions of buildings are hereafter constructed or moved into or within the jurisdiction. IFC 508.1

17. Fire hydrants shall be installed as per fire flow and spacing requirements specified for the type of development and in accordance with the Fire Department specifications. Chapter 6 of the Fire Protection Features.
18. Dead-end fire department access roads in excess of one hundred and fifty 150 feet long shall be provided with approved turn around provocations. Chapter 6 City Fire Protection Features. Marked turn-around areas must be sufficiently delineated to show the turn-around. The proposed locations at the A and D buildings is acceptable. Signage and/or stripping are required.
19. The fire department requires ATB or the final lift of asphalt be installed prior to combustibles on site. (IFC 501.4)
20. Submit two (2) sets of fire alarm and fire sprinkler system plans to the fire department for review and approval. (IFC 901.2)

APPROVED ON THE 19<sup>TH</sup> DAY OF OCTOBER, 2010

CITY COUNCIL  
CITY OF OAK HARBOR, WASHINGTON

\_\_\_\_\_  
Mayor

Attest:

\_\_\_\_\_  
Connie Wheeler  
City Clerk

**City of Oak Harbor  
City Council Agenda Bill**

Bill No. 8  
Date: October 19, 2010  
Subject: Franklin Manor  
PRD Overlay Zone

**FROM:** Steve Powers *SP*  
Development Services Director

**INITIALED AS APPROVED FOR SUBMITTAL TO THE COUNCIL BY:**

*JS* Jim Slowik, Mayor  
*PS* Paul Schmidt, City Administrator  
*DM* Doug Merriman, Finance Director  
*WH* Margery Hite, City Attorney, as to form

**PURPOSE**

This agenda bill presents an ordinance for City Council's consideration that if adopted will amend the City's official zoning map. The amendment will indicate a PRD overlay zone over the underlying R-4 Multi-Family Residential zoning for the Franklin Manor Planned Residential Development.

**AUTHORITY**

Zoning maps are a form of development regulation under RCW 36.70-A.030 (7) and OHMC 19.31.260 requires the boundary of a PRD to be indicated as a "subdistrict PRD" on the zoning map of the City of Oak Harbor. Adoption of a PRD overlay zone is a Type V review process requiring City Council action (OHMC 18.20.270).

**SUMMARY STATEMENT**

On September 24, 2010 the Hearing Examiner held an open public hearing on the plans for Franklin Manor, a 158 unit multi-family apartment project located along SW Swantown Avenue and SW Fort Nugent Avenue. The City Council considered the PRD, site plan, and administrative variances for the Franklin Manor PRD just prior to this agenda bill. Adoption of the PRD overlay zone and amending the zoning map, is the last step in the approval process for the Franklin Manor PRD.

**RECOMMENDED ACTION**

1. Conduct public hearing.
2. Approve ordinance amending the zoning map for the Franklin Manor PRD.

**ATTACHMENTS**

- A. Ordinance for the PRD Overlay Zone for Franklin Manor PRD.

**MAYOR'S COMMENTS**

Franklin Manor PRD Overlay Zone, October 19, 2010

**ORDINANCE NO. \_\_\_\_\_**

AN ORDINANCE APPROVING A PRD OVERLAY ZONE FOR THE FRANKLIN MANOR PLANNED RESIDENTIAL DEVELOPMENT LOCATED ON ISLAND COUNTY PARCEL NUMBER R13203-110-1730 AND AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF OAK HARBOR TO REFLECT THE OVERLAY ZONE

WHEREAS, the City Council of the City of Oak Harbor has approved the Planned Residential Development ("PRD"), site plan, and administrative variances for Franklin Manor;

THE CITY COUNCIL OF THE CITY OF OAK HARBOR do ordain as follows:

Section One: The zoning for the property generally known as the Franklin Manor PRD located on Island County Parcel Number R13203-110-1730 is hereby amended to add the Franklin Manor PRD Overlay Zone to the underlying zoning of R-4 Multi-Family Residential.

Section Two: All development within the Franklin Manor PRD Overlay Zone shall be consistent with the Franklin Manor PRD as approved by the Oak Harbor City Council on October 19, 2010. Development standards not addressed by the Franklin Manor PRD shall be the same as the underlying zoning and/or other applicable provisions of the OHMC.

Section Three: The official zoning map of the City of Oak Harbor is hereby amended to reflect the planned residential development subdistrict for the above mentioned property.

Section Four: Severability. If any provision of this Ordinance or its application to any person or circumstance is held invalid, the remainder of the Ordinance or the application of the provision to other persons or circumstances is not affected.

Section Five: Effective Date. This Ordinance shall be in full force and effect five days after its passage and publication as required by law.

PASSED by the City Council this 19<sup>th</sup> day of October, 2010.

- ( ) APPROVED by its Mayor this \_\_\_\_ day of \_\_\_\_\_, 2010.  
( ) Vetoed

THE CITY OF OAK HARBOR

\_\_\_\_\_  
Mayor

Attest:

Franklin Manor PRD Overlay Zone Ordinance, October 19, 2010

\_\_\_\_\_  
City Clerk

Approved as to Form:

\_\_\_\_\_  
City Attorney

Published: \_\_\_\_\_

**City of Oak Harbor  
City Council Agenda Bill**

Agenda Bill No. 9  
Date: October 19, 2010  
Subject: Personnel Appeals Board – Emergency  
Ordinance

**FROM:** Jessica Neill Hoyson, HR Manager

**INITIALED AS APPROVED FOR  
SUBMITTAL TO THE COUNCIL BY:**

 Jim Slowik, Mayor  
 Paul Schmidt, City Administrator  
 Doug Merriman, Finance Director  
\_\_\_\_ Margery Hite, City Attorney, as to form

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**SUMMARY STATEMENT:** This ordinance proposes a clarification of the City's method of dealing with employee appeals of disciplinary actions. The internal grievance process is currently established through the policies of the Personnel Manual. This grievance process addresses appeals from supervisory and department-level discipline decisions within the City before a City employment decision is final. In addition, however, it is important that the City also provide an administrative "post-deprivation" appeals process after a final City decision so that an efficient and independent review can be provided without recourse to superior court.

Traditionally, the personnel advisory board filled this function on an *ad hoc* basis but without authority under the city code. Under current city code provisions, the Personnel Advisory Board is only authorized to act in an advisory capacity, rather than as an independent decision-making body. The proposed changes to the current code will clarify that the personnel appeals board functions as an independent administrative review body.

This ordinance amendment is proposed as an emergency due to the need to have this remedy available for a number of pending personnel issues which could require use of the appeals board.

**DISCUSSION**

The proposed ordinance makes the following changes:

To the OHMC 2.34.030:

1. Clarifies "covered employees" to which these rules, and thus recourse to the personnel appeals board, apply.

Personnel Appeals Board  
October 19, 2010 Meeting

2. Clarifies what disciplinary actions taken by the City may be appealed to the board.
3. Provides a definition for a "Disciplinary Appeal."

To the OHMC 2.34.070

1. Changes title from "Personnel Advisory Board" to "Personnel Appeals Board" and gives the board decision-making authority.
2. Provides qualifications for board members
3. Clarifies rules and procedures.

To the OHMC 2.34.200

1. Clarifies that the grievance process is "internal" in contrast to the "appeals" process which will be to the personnel appeals board.

**Emergency ordinance:** The proposal is that the City Council adopt this ordinance on an emergency basis to be available if any of the pending personnel issues were to result in the need for an independent administrative appeal. In the absence of a "post-deprivation" appeals process, appeal from a City disciplinary decision would be "de novo" or "from the beginning" in superior court. Such an appeals process is costly to both the City and the employee.

An emergency finding is required for these changes to take effect without delay. Under the city code, a finding that an emergency exists is necessary to adopt the ordinance in a single meeting:

An ordinance other than an emergency ordinance, budget amendment, moratorium ordinance, or ordinance to be passed after a public hearing shall be introduced at least one meeting prior to the one it is considered for passage...OHMC 1.04.020(2) (in part).

Under state law, an emergency finding is necessary for the ordinance to take effect immediately:

No ordinance shall take effect until five days after the date of its publication unless otherwise provided by statute or charter, except that an ordinance passed by a majority plus one of the whole membership of the council, designated therein as a public emergency ordinance necessary for the protection of public health, public safety, public property or the public peace, may be made effective upon adoption, but such ordinance

may not levy taxes, grant, renew, or extend a franchise, or authorize the borrowing of money. RCW 35A.12.130(in part)

Since this is a housekeeping amendment to conform the language of the code with the actual personnel practices of the City, it will not significantly change existing practices. On the other hand, it makes clear that this remedy is available to employees and must be utilized before recourse may be had to the courts. In the event that any of the pending issues leads to a grievance and appeal, the immediate effectiveness of this ordinance would obviate any questions about the availability of a post-deprivation administrative remedy, thus saving the City from the potential expense of a trial de novo.

There are two requirements to adopt this as an emergency ordinance:

1. It must be passed by a majority plus one of the whole membership of the council.
2. The council must make a finding that the ordinance is necessary for the protection of public health, public safety, public property or the public peace.

***Budget considerations:*** This ordinance is not anticipated to have any immediate budget impacts but is expected to create substantial savings in legal costs in comparison with trials in superior court.

**STANDING COMMITTEE REVIEW:**

This matter was not brought first to the standing committees because the need to clarify the disciplinary appeals procedures became significant relatively quickly. An overall update of the personnel code and personnel policies has been ongoing and will be brought to the city council as the proposals are ready for council consideration.

**RECOMMENDED ACTION:**

1. Enter a finding that an emergency exists requiring the immediate passage of the ordinance for the preservation and protection of public property and public peace.
2. Adopt the proposed emergency ordinance clarifying procedures and bases to appeal disciplinary action by a majority plus one vote of the city council.

**ATTACHMENTS:**

Proposed emergency ordinance clarifying procedures and bases to appeal disciplinary action.

**MAYOR'S COMMENTS:**

ORDINANCE NO. \_\_\_\_\_

AN EMERGENCY ORDINANCE OF THE CITY OF OAK HARBOR AMENDING OAK HARBOR MUNICIPAL CODE CHAPTER 2.34 ENTITLED "PERSONNEL" TO CLARIFY THE PROCEDURES AND BASES TO APPEAL DISCIPLINARY ACTION

THE CITY COUNCIL OF THE CITY OF OAK HARBOR do ordain as follows:

**Section One.** Oak Harbor Municipal Code Section 2.34.030, adopted in Section 4 of Ordinance No. 1210 in 2000, is hereby amended to read as follows:

**2.34.030 Definitions.** The following terms and phrases shall have the meanings ascribed to them herein:

- (1) "Regular" means an employee who has successfully completed his or her trial period and is retained in accordance with the rules and regulations;
- (2) "Trial" means an employee appointed to fill a regular position, but who has not completed a trial period;
- (3) "Part-time" means an employee working a fraction of the normal work day and whose hours may be regular or irregular;
- (4) "Temporary" means a person employed to meet a short term need of the city. An employee cannot remain in this category more than 12 months without the written approval of the mayor;
- (5) "Hourly" means any employee who is paid on an hourly basis;
- (6) "Administrator" means the human resources manager designated by the mayor to administer this chapter;
- (7) "Covered Employee" means ~~a person employed by the city; provided the term "employee", as used herein, does not include and does not apply to any of the following~~ an employee appointed to a position to which the rules of this chapter apply. The provisions of this chapter do not apply to the following positions:
  - (a) Elective officers (members of the city council);
  - (b) The mayor and those persons who report directly to the mayor;
  - (c) The city attorney and assistant city attorneys;

- (d) Department heads, as that term is used in ordinances which establish the various departments;
  - (e) Members of appointive city boards, city commissions and city committees;
  - (f) Persons engaged under contract to provide any service to the city;
  - (g) Volunteer personnel;
  - (h) Persons hired from time to time to perform casual work including, but not limited to, those employed to perform seasonal work or to meet the immediate requirements of an emergency condition;
  - (i) Other temporary employees;
  - (j) Part-time employees; and
  - (k) Civil service members;
- (8) "Department head" means a person working for the city who has been designated by the mayor to be the head of a department;
- (9) "Disciplinary action" means an action such as imposing discipline on a covered employee, which shall include, but not be limited to, a written reprimand, a suspension, a demotion or a disciplinary discharge/terminations from employment for reasons which relate to the recipient's employment or conduct, and which has been or may be imposed on an employee by the mayor or by the mayor's designee. Department heads, the city administrator and the mayor shall have authority to issue disciplinary actions. Verbal warnings, counseling, written statements of performance expectations, including related notes, and performance appraisals, shall not be considered disciplinary actions, although any of these may be considered subsequently in determining whether to take any disciplinary action and in determining the type and extent of disciplinary action to be taken. Actions under OHMC 2.34.205 and are not subject to the grievance process. Lay-offs, resignations and reinstatements are also not considered discipline;
- (10) "Disciplinary appeal" means an appeal by a covered employee to the personnel appeals board after the employee has exhausted the internal grievance process in accordance with the dispute resolution provisions of the Personnel Policies Manual (Policy 902) adopted August 8, 2007.
- (11) "Personnel policies" mean all of those policies, guidelines and procedures adopted by either the city council or the mayor pursuant to OHMC 2.34.110.

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**Section Two.** Oak Harbor Municipal Code Section 2.34.070, adopted in Section 8 of Ordinance No. 1210 in 2000, is hereby amended to read as follows:

**2.34.070 Personnel ~~advisory~~appeals board.**

- (1) There shall be a personnel ~~advisory~~appeals board consisting of three (3) members appointed by the mayor and approved by the city council. Members shall serve ~~three~~four-year terms and may be re-appointed by the mayor and approved by the city council for additional term(s). Members of the personnel advisory board at the time of the adoption of this ordinance shall continue to serve on the newly created personnel appeals board through the expiration of their terms of office. ~~Members shall not be city employees. The board shall hear grievances. The board may be assigned to review city personnel policies and make suggested changes. The personnel advisory board may be assigned to conduct appeals of disciplinary matters by the mayor. No employee, officer or other person working for the city shall be appointed to this board. No officer, official, or employee of the city or any of their immediate family members may serve on the board. "Immediate family member" as used in this section means the parents, spouse, siblings, children, or dependent relatives of the officer, official, or employee, whether or not living in the household of the officer, official, or employee. Members of the personnel appeals board shall live or work in the city of Oak Harbor at the time of appointment. Board members shall be appointed on the basis of knowledge of personnel practices and/or labor relations.~~
- (2) ~~In grievance matters or appeals,~~ The board shall hear disciplinary appeals by covered employees who have exhausted the internal grievance procedure. The board shall have authority to conduct hearings, administer oaths, direct the appearance of witnesses and adopt procedures to carry out such matters for that purpose. The board may adopt rules governing procedures for hearing disciplinary grievances. In the absence of conflicting rules adopted by the board, the following provisions of the Administrative Procedures Act shall apply: RCW 34.05.434, 34.05.437, 34.05.440, 34.05.449, 34.05.452, 34.05.455, 34.05.458, 34.05.461, 34.05.467, 34.05.473, and 34.05.476. The proceedings shall be recorded and the decision of the board shall be in writing.
- (3) The mayor shall appoint a secretary for the personnel advisory board.
- (4) The board shall meet at least once every three months.
- (5) The board shall represent the public interest.

**Section Three.** Oak Harbor Municipal Code Section 2.34.200 adopted in Section 21 of Ordinance No. 1210 in 2000 is hereby amended to read as follows:

**2.34.200 Disciplinary actions and appeals.**

- (1) An employee is subject to disciplinary action when, in the opinion of the department head, disciplinary action is necessary for the good of the city service.

- (2) No officer or employee of the city has authority to grant or to offer to any employee any job security or job protection which is not provided for that employee by city ordinance; provided, the city council retains power to enter into contract with employees of the city.
- (3) The city may impose upon any employee any disciplinary action or form of discipline which the department head finds appropriate to given conduct of the employee. In determining such discipline, the responsible person shall consider the employee's behavior involved, the employee's past record, length of service and surrounding circumstances as well as the good of the service. The responsible person shall give such weight to each of such factors as he/she finds in his/her discretion is appropriate. Generally employees are to be given time to correct problems of conduct before the employee is discharged; however, regardless of the circumstances, the city may discharge any employee at any time, consistent with the provisions of this chapter. There shall be no requirement that any specific number or sequence of disciplinary actions or warnings be imposed prior to discipline by suspension, demotion or discharge.
- (4) The personnel policies shall provide for internal appeals of disciplinary actions.
- (5) Prior to final decision to dismiss or suspend any employee, the person responsible for such decision shall offer to meet with the employee and to listen to his/her point of view as to the reasons for such possible discharge or suspension. Administrative leave prior to such meeting is permitted.
- (6) ~~The mayor may order mediation prior to hearing of any appeal.~~ Failure to follow the grievance procedures shall constitute a waiver of the appeals process and a failure to exhaust administrative remedies for purposes of further appeal.

**Section Four. Severability.** If any provision of this Ordinance or its application to any person or circumstance is held invalid, the remainder of the Ordinance or the application of the provision to other persons or circumstances is not affected.

**Section Five. Emergency.** The City Council finds that immediate passage of this ordinance is necessary for the preservation and protection of public property and public peace by providing an immediate and effective administrative remedy to employees seeking to challenge disciplinary actions imposed upon them. This ordinance shall take effect immediately.

PASSED by the City Council this \_\_\_\_ day of \_\_\_\_\_, 2010.

THE CITY OF OAK HARBOR

Veto ( )  
 Approve ( )

\_\_\_\_\_  
 Mayor  
 \_\_\_\_\_ (date)

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**Attest:**

\_\_\_\_\_  
**City Clerk**

**Approved as to Form:**

\_\_\_\_\_  
**City Attorney**

**Published:** \_\_\_\_\_