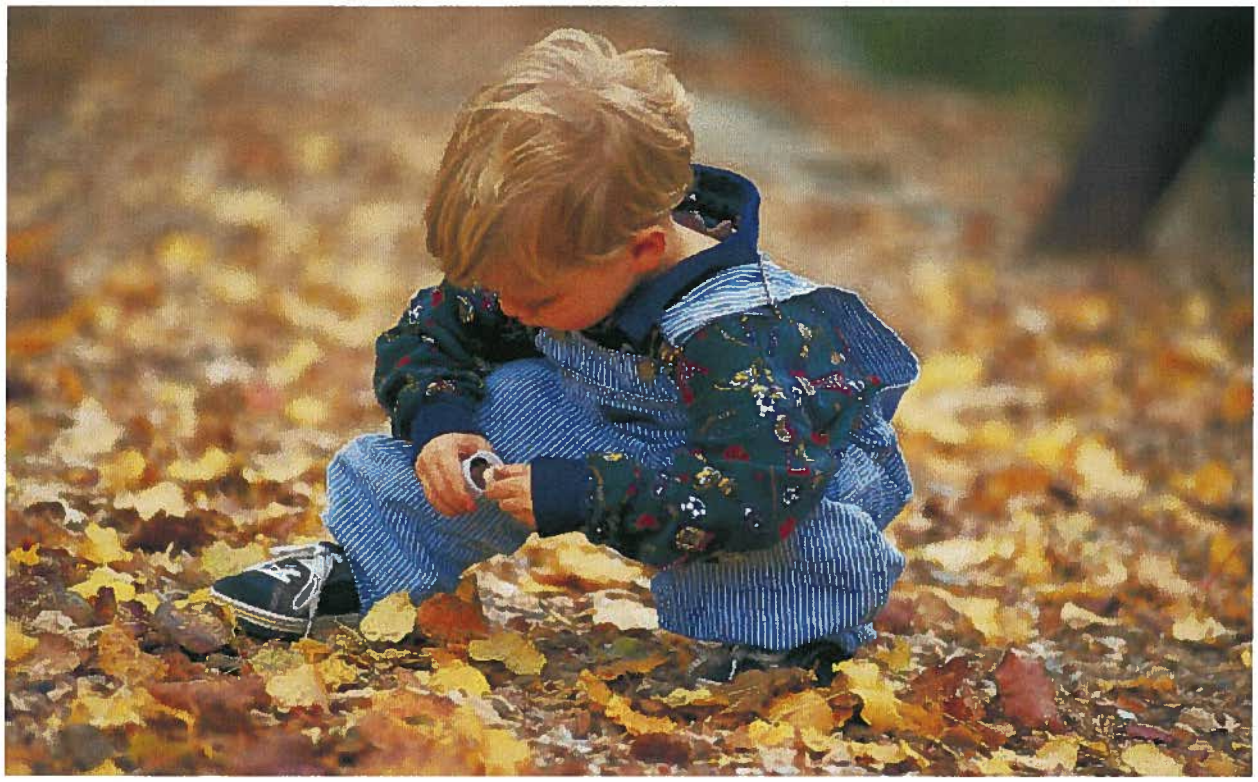


City of Oak Harbor
City Council Meeting

Agenda for
October 18,2011
6:00 p.m.

Oak Harbor City Council
REGULAR MEETING
Tuesday, October 18, 2011, 6:00 p.m.

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 Pastor Patricia Eustis of St. Stephen's Episcopal Church

ROLL CALL

MINUTES 10/4/11 Regular Meeting

NON-ACTION COUNCIL ITEMS:

1. Report – Work Crew Pilot Project.
2. Public Comments.

COUNCIL CONSIDERATION AND ACTION ON THE FOLLOWING MATTERS:

3. Consent Agenda:

Page 19

   a. Noise Permit – Living Word.
   b. Approval of Accounts Payable Vouchers (Pay Bills).

Page 23

4. Resolution – 2012 Legislative Priorities.

Page 31

5. Fairway Point Division 3 Preliminary Plat – Request for Extension.

Page 53

6. Economic Development Proposal.
7. City Administrator's Comments.
8. Council Members' Comments.
   - Standing Committee Reports
9. Mayor's Comments.

ADJOURN

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.

"Civility costs nothing and buys everything."
~Mary Worley Montegu

City Council Meeting
Tuesday, October 4, 2011, 6:00 p.m.
City Hall – Council Chambers

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

INVOCATION Bishop Gordon Keyes, Church of Jesus Christ of Latter Day Saints

ROLL CALL

Mayor Jim Slowik
Six Members of the Council,
- Rick Almberg
- Beth Munns
- Jim Campbell
- Scott Dudley
- Danny Paggao, Mayor Pro Tem
- Bob Severns

Councilmember Jim Palmer was absent and formally excused from this meeting.

Paul Schmidt, City Administrator
Bill Hawkins, City Attorney
Doug Merriman, Finance Director
Steve Powers, Development Services Director
Cathy Rosen, Public Works Director
Eric Johnston, City Engineer
Larry Cort, Project Manager
Lt. John Dyer, OHPD
Bob Wallin, OHFD
Mike McIntyre, Senior Services Director
Chris Sublet, Harbormaster
Renée Recker, Executive Assistant to the Mayor was absent from this meeting.

MINUTES

MOTION: Councilmember Munns moved to approve the 9/20/11 regular meeting minutes. The motion was seconded by Councilmember Severns. Councilmembers Munns, Dudley, Paggao, and Severns voted to approve the minutes. Councilmembers Almberg and Campbell abstained from the vote since they had been absent from the meeting. The motion carried.

NON-ACTION COUNCIL ITEMS

Public Comments

Barbara Berry-Jacobs, Soroptimist International of Oak Harbor. Ms. Berry-Jacobs first thanked Council for keeping the Pier project alive – the dream gives us hope. She then spoke with concern about outside groups selling fireworks in the City, the limit on stands and potential that Council would have to do a random drawing if there are more than five applicants, a request of Council to amend the Municipal Code, address these concerns, and keep sales profits in Oak Harbor. Ms. Berry-Jacobs' full statement was distributed to Mayor and Council and is attached to these minutes as Exhibit A.

Helen Chatfield Weeks, 1415 SE 9th, Oak Harbor. I too want to say thank you for keeping the pier idea in mind for the great City of Oak Harbor which would become greater with the pier and the money to do it. The Oak Harbor football team is playing Mt. Vernon this Friday night at 7:00 p.m. They are great again this year.

Paul Brewer, 225 NE Ernst, Oak Harbor. Mr. Brewer commended the Police Department for the work they did last night. A good friend of mine was where the suspect left his car. She called 911 and they responded quickly.
Cecil Pierce, 871 NW Haslo Place, Oak Harbor. This month is Disability Awareness Month. Mr. Pierce encouraged Mayor and Council to use a wheelchair on City streets to better understand accessibility and use a blindfold to experience the sight-impaired. Mr. Pierce also thanked the Police Department for doing an excellent job.
Martha Yount, 364 NE Ronhaar, Oak Harbor. Ms. Yount also thanked the law enforcement community. Keep a prayer for the Lambert and Eisner families and support them as they go through this tragedy.
Mel Vance, P.O. Box 2882, Oak Harbor. Mr. Vance also thanked the Police Department along with Island and Skagit area law enforcement and emergency services. Mr. Vance said he had a wheelchair to loan if someone would like to use it.

Mayor Slowik added that he did not doubt challenges to mobility and agreed with the above sentiments. There have been conferences on Whidbey concerning accessibility and this message should extend out to other cities and County areas.

Consent Agenda

A. Appointment to Arts Commission – Skip Pohtilla
B. Noise Permit – Pioneer Way Ribbon Cutting Activities
C. Approval of Accounts Payable Vouchers

MOTION: **Councilmember Campbell moved to approve consent agenda items A, B, and C with item C paying Accounts Payable check numbers 147400 – 147401 in the amount of $824.45, check numbers 147402 – 147403 in the amount of $201.95, and check numbers 147404 – 147575 in the amount of $877,012.16. The motion was seconded by Councilmember Almberg and carried unanimously.**

Mayor Slowik introduced and welcomed Skip Pohtilla, as the newest Arts Commission member, and thanked KC Pohtilla for her continuing work on the Arts Commission and noting Ms. Pohtilla's many professional and artistic photographs of Oak Harbor.

MOTION: **Councilmember Campbell moved to appoint Helen Chatfield-Weeks as the official City Council and Community Cheerleader. The motion was seconded by all five City Council Members and carried unanimously.**

Appointments – Youth Services Advisory Board
OHPD Lt. John Dyer presented this agenda bill and recommended appointments to the Youth Services Advisory Board. Lt. Dyer also gave a brief history of the Advisory Board and its purpose and thanked the appointees for their commitment toward addressing gaps in youth services and promotion of cooperation, positive change, and stakeholder sharing to benefit youth. There is no single entity advocating for all of the community's youth. This Board can provide a public forum for solutions.

There were no public comments.

Council Discussion

Councilmembers individually thanked the appointees, talked about the re-establishment of this Board, asked about Council representation on the Board, the disbanded County Children's Council, and the opportunity to partner with youth providers. The existing ordinance will be revised and come back before standing committees.

MOTION: Councilmember Severns moved to:

1. **Approve these appointments to the Youth Services Advisory Board:**
   For a one year term, which will expire October 2012
   - **Peggy Fenstermaker – Executive Director of Boys and Girls Club of Oak Harbor**
   - **Cathy Lange – Island County Juvenile Court**
   - **Kathi Phillips – Real Estate Agent, Community Member**

   For a two year term, which will expire October 2013
   - **Duncan Chalfant – Board Member of Boys and Girls Club of Oak Harbor**
   - **Allison Johnston – Substance Abuse Coordinator, Island County Human Services**
   - **Anne Murphy – Librarian, Oak Harbor Public Library**

   For a three-year term, which will expire October 2014
   - **Mark Brown – Island County Sheriff**
   - **Peggy Dyer – Executive Director of Big Brothers Big Sisters**
   - **Cathy Niiro – Executive Director of United Way of Island County**
2. **Move forward to appoint a Councilmember to the Youth Services Advisory Board as soon as possible.**

The motion was seconded by Councilmember Campbell and carried unanimously.

Resolution – Marina Moorage Fees Reduction

Development Services Director Steve Powers presented this agenda bill and resolution with revised fee schedule that, if adopted by City Council, would reduce the amount of permanent and guest moorage fees. The proposed reduction reflects project savings realized by the City as the result of a more favorable interest rate on the Limited Tax General Obligation (LTGO) bonds used to finance Phase 2 of the Marina Redevelopment Project (dredging). Harbormaster Chris Sublet was also available to answer questions. On October 5, 2010, the City Council adopted Resolution No. 10-24 setting the permanent and guest moorage rates at a level necessary to fund the dredging project based on information and estimates of funding costs at that time. The estimated annual debt service payment was $203,075.00. As a result of this action, permanent moorage rates were increased by $1.15 per lineal foot per month and guest moorage rates were increased by a prorated amount equal to that figure. On March 4, 2011, the City Council conducted a public hearing on the proposed bond ordinance. On

March 9, 2011 they adopted Ordinance No. 1600 that provided for the issuance of $2,560,000.00 in Limited Tax General Obligation bonds to fund the dredging project and other improvements at the Marina. As the result of favorable market conditions the total bond amount and interest rate were less than that estimated in 2010. The projected annual debt service payment is $187,658.00. The difference in the annual debt service payment reduces the permanent moorage rate to $1.03 per lineal foot per month; this is a savings of $0.12 per lineal foot per month.

Mayor Slowik called for public comments.

Paul Brewer, 225 NE Ernst, Oak Harbor. I had conversations with several people who have been using the Marina and boat lift for years but now staff has to assist with a $50+ dollar fee each time. They are concerned. The City will lose revenue from two long-time boat owners who will move their boats elsewhere. Individuals could be personally responsible for the liability of using the hoist. I don't understand lowering rates and raising this fee.
Mel Vance, P.O. Box 2882, Oak Harbor. 12 cents is not a huge amount. Would it be more advantageous to keep this (12 cents) and pay off the bonds sooner. With the Marina paid off sooner, the City would achieve a more attractive bond rating for the waste water treatment plant.
Cecil Pierce, 871 NW Haslo Place, Oak Harbor. This reduction while everything else is being raised, our sewage rates for example; reducing this rate is wrong. If the bond is paid off sooner, use it for other needs later on.

Council Discussion
Mr. Powers was asked to address Mr. Brewer's public comments. Mr. Powers noted that the change in hoist policy is correct. The Marina previously sold hoist cards and allowed the public to launch and pull their boats on their own. There were nine or ten customers this year. Recently, the hoist cable broke as a result of improper hoist usage and a staff member narrowly missed being hit by the hoist. We immediately moved to have only City staff operate the hoist. The fee had been static until now. Mr. Powers also noted that, with regard to the Marina's 83% occupancy rate, the Marina is off by 8 or 9% this year as compared to past years. The occupancy rate percentage was used as a calculation basis in 2010 and we wanted to use the same formula. The security gates are not part of the $2.5 million. Council noted that the Marina Advisory Committee had recommended approval of this resolution, but the committee notes were not included in the agenda bill attachment. Mr. Powers responded that this is a good point. Discussion continued about the slight hedge in 2010 ($1.15 when in fact it was $1.08) and that Council approved that in October 2010. This evening's resolution takes rates through December 2012 and there will be another Council action needed regarding rates thereafter. Discussion followed about the credibility (of lowering the rate) and that it is appropriate - only $60 per year, the savings should be returned to slip tenants and is the right thing to do, and agreement that the public should not be operating the hoist. Mayor Slowik noted that the Council at their last meeting authorized the return of funds regarding the Multimodal Facility (Flintstone Park).

MOTION: **Councilmember Munns moved to adopt Resolution 11-11. The motion was seconded by Councilmember Campbell and carried unanimously.**

Public Hearing – Resolution for 2012-2017 Transportation Improvement Program
Public Works Director Cathy Rosen presented this agenda bill. The City is required by State law to submit an approved six-year Transportation Improvement Program (TIP) whose primary purpose is to facilitate use of Federal transportation funds awarded to the City. Projects that have Federal funding must appear in the six-year TIP at the local and State level so the City can obligate and eventually use the Federal funds. The projects listed on the TIP are coordinated with those listed in the Transportation Element of the Comprehensive Plan. Two previously included projects are no longer in the TIP. The SE Pioneer Way Improvements Project is currently under construction and scheduled to be completed this year. The Oak Harbor Multimodal Facility has been removed following a Council decision regarding the disposition of the primary source of funding for the project. No new projects have been added to the TIP. Coordinating projects in the Transportation Comprehensive Plan, the six-year TIP, and the Capital Facilities Plan improves our communication and coordination with other agencies, utility companies and the public, and helps the City remain focused on a manageable list of transportation projects. The priority numbering in the TIP is not intended to supersede or be superimposed into the citywide effort of overall capital project prioritization. This submittal process is accomplished in conjunction with the Regional Transportation Planning Organization (RTPO). Once approved by the Council, the City's TIP is submitted to the RTPO. In turn, the RTPO submits a regional TIP to the State by October of each year and the State then prepares a statewide TIP in January of each year. It is the incorporation of the City's projects into this statewide TIP which enables Oak Harbor to spend Federal funds on local transportation projects.

Mayor Slowik opened the public hearing at 6:45 p.m.

Paul Brewer, 225 NE Ernst, Oak Harbor. Is the extension of Bayshore Drive included? Citizens do not want the ball field or RV Park moved.

Mayor Slowik clarified that this is not included in the TIP.

With no other comments coming forth, Mayor Slowik closed the public hearing at 6:47 p.m.

Council Discussion
Discussion followed about street repair, the NE 7th Avenue improvement with thanks to Ms. Rosen and Public Works staff and Ms. Rosen's response that NE 7th Avenue will need to go through design, acquisition, and wetlands assessment before construction can begin. Ms. Rosen noted that Arnie Peterschmidt, Project Engineer, has worked hard to secure funding from the RTPO. Discussion continued regarding sidewalks at Oak Harbor and SR-20 (also in need of acquisition and wetlands assessment), and that the TIP can be amended since it is considered annually for approval. The agenda bill

had included a reference to the Planning Commission's July 26th meeting and Council asked if their minutes could be included in future presentations since the Commission's recommendation was unknown. Ms. Rosen said that the Commission did recommend approval. Discussion followed about how priorities are set within the City, project scheduling based on staff resources, and fund availability.

MOTION: **Councilmember Almberg moved to adopt Resolution 11-13 approving the 2012 – 2017 Six-Year Transportation Improvement Program. The motion was seconded by Councilmember Campbell and carried unanimously.**

Pioneer Way Site Security Contract – Swinomish Indian Tribal Community
Assistant City Attorney Bill Hawkins presented this agenda bill for the purpose of entering into a professional services agreement with the Swinomish Indian Tribal Community to provide site security services on SE Pioneer Way. The Swinomish Indian Tribal Community will provide a security guard at the enclosed archaeological site on SE Pioneer Way between Ireland Street and Ilwaco Street from 5:00 p.m. to 7:00 a.m. Monday through Sunday and from 7:00 a.m. to 5:00 p.m. on Saturday, Sunday and Holidays. The hourly rate for these services is $13.00/hour and the contract also stipulated that the City will pay for indirect costs and benefits at 1.4 times the hourly rate and for mileage at the standard rate. The proposed contract establishes a not-to-exceed limit of $32,000.00. Security at the site will be needed until the archaeology work has been completed. Contracting with the Swinomish Indian Tribal Community provides for adequate security at a lower cost than a private security company or City staff. The Swinomish Tribe replaced public works staff on September 14th. Based on negotiations between the City Attorney's office and representatives from the Swinomish Tribe the effective date of the agreement is September 14, 2011. The Tribal Senate adopted the contract this date (10/4/11), its timing was critical, and it was important to have the contract before City Council as quickly as possible.

There were no public comments.

Council Discussion
Discussion followed regarding the $50,000 approved for security services (Security Services Northwest) and if that funding has been expended (yes) and the use of public works staff and how their labor has been tracked. Dr. Cort responded that public works staff and hours have been tracked through log sheets for each employee's time and rate of pay.

MOTION: **Councilmember Munns moved to authorize the Mayor to sign the contract with the Swinomish Indian Tribal Community for site security for the Pioneer Way archaeological site in an amount not to exceed $32,000.00. The motion was seconded by Councilmember Severns and carried unanimously.**

Break
Mayor Slowik called for a break at 7:00 p.m. and the meeting reconvened at 7:05 p.m.

Contract Revisions – SE Pioneer Way Reconstruction Project
Project Manager Larry Cort presented this agenda bill for approval of two change orders to the contract with Strider Construction to account for cost increases attributable to the discovery of Native American human remains during the SE Pioneer Way Reconstruction Project. The total amount of the two change orders to the contract with Strider Construction is $130,258.50. Dr. Cort also corrected page 136 of the agenda packet, first sentence of the summary statement which should read: On February 1, 2011, the City Council awarded a contract to Strider Construction in the amount of $3,864,363.27 (not $3,865,839.96). The $1,476.69 amount was tracked in the bid tab but did not get picked up in an Excel spreadsheet and a change order will be executed for this amount.

The total for the four change orders is $220,258.50. When added to the $175,801.35 sum of Change Orders 1 through 3, the combined total equals $396,059.85 which is $46,059.85 in excess of the original $350,000 Council authorization. While these change orders had been recommended for approval by the Resident Engineer (KBA), they had not been approved by the City Engineer pending City Council action this evening. In proceeding, it was recommended that the City Council direct the City Engineer to execute Change Orders 4 and 5 by increasing the $350,000 contingency amount by $130,258.50. If approval of Change Orders 4 and 5 is granted, then Change Orders 6 and 7 would be executed administratively from the original $350,000 contingency. This will in effect leave a balance of $84,198.55 in administrative authority for changes and quantity that may occur as the project draws to a close.

Dr. Cort talked about these five areas:
1. Loss of efficiency.
2. Overhead costs incurred during work stoppage.
3. The demobilization and remobilization of Strider Construction's equipment, personnel, and subcontractors.
4. With regard to project and cost extensions, had the archaeological discovery not been made it was likely that Strider Construction would have achieved substantial completion in early August.
5. And finally, the restructure of the substantial completion incentive and project acceleration – Strider Construction concentrated a lot of hours in a short period of time to reach substantial completion by October 6, 2011.

Dr. Cort also talked about the Standard Specifications attachment to the agenda bill and the City's good fortune to have KBA as the project's construction management firm. This evening's proposal accounts for items reasonably attributed to costs incurred by a contractor during work stoppages. If approval is denied, it is likely a delay claim would be filed to obtain this money.

Based on analysis with KBA, there is sufficient money remaining to deal with any additional change orders. Nothing of a technical nature is foreseen, but there may be additional costs associated with the archaeological discovery.

There were no public comments.

Council Discussion

Discussion followed about the substantial completion incentive with compliments to Strider for achieving substantial completion by October 6, 2011, the amount left for future change orders ($84,198.55), compliments to City staff for their hard work, the $1,476 difference as discussed earlier with regard to Council's February contract authorization for Strider Construction, and, with the change orders and costs, where the bottom line is, to date. Discussion continued about the discovery of archaeological remains costing the City $565,000 and then up to $695,000 with tonight's change orders and that additional survey costs have not been counted. Dr. Cort distributed a *Running Costs and Estimated Completion Costs* sheet which is attached to these minutes as Exhibit B. This evening's change orders are reflected in the Roadway/City Utilities/Parking Alternate/Contingency line item. Survey costs should be the last of the contract amendments. Costs are still under the Engineer's Estimate and running $717,438 less than the original budget resolution, but this sheet does not include offsite archaeological costs yet. Downtown merchants are looking forward to the October 15, 2011 ribbon cutting and associated festivities.

MOTION: **Councilmember Almberg moved to direct the City Engineer to execute Change Order Numbers 4 and 5 increasing the contract amount with Strider Construction by $130,258.50. The motion was seconded by Councilmember Munns and carried unanimously.**

City Administrator's Comments

City Administrator Paul Schmidt asked OHPD Lt. John Dyer to brief the Council on yesterday's two homicides. They took place in the County, but the two families have been involved in Oak Harbor for a long time. OHPD was brought in very early since Island County Sheriff's Department only had two deputies patrolling North Whidbey at that time. OHPD Officer Cedric Niiro apprehended the suspect but all involved agencies worked together and OHPD detectives will continue to assist the Sheriff's Department. Everyone involved did a phenomenal job. Mayor Slowik spoke on behalf of City Hall and the entire community with appreciation of our law enforcement personnel; you put your lives on the line and do it freely to keep us safe.

Mr. Schmidt also talked about the AWC Regional Meeting in Mt. Vernon on October 19, 2011, and asked that those who wished to attend contact him or Karen Crouch.

Council Members' Comments

Council Members gave their respective standing committee and board reports noting that the next Public Safety Standing Committee meeting will be on October 27th instead of October 20th. Councilmember Campbell apologized to the Boy Scouts attending this

evening since they did not receive the handouts distributed earlier in the meeting. Mr. Campbell also talked about his successful cancer treatment. Mayor Slowik and Council Members applauded Mr. Campbell for this good news. At Mr. Schmidt's request, Councilmember Munns talked about the many events that will take place during the October 15th ribbon cutting on Pioneer Way.

Mayor's Comments

Mayor Slowik was humbled by yesterday's tragic events; we mourn those lost and appreciate law and safety personnel and their services. Mayor Slowik expressed his pride in the Council as they come together with the same goals in spite of differences.

ADJOURN

With no other business coming before the City Council, Mayor Slowik adjourned the meeting at 7:50 p.m.

_____

Connie T. Wheeler
City Clerk

Exhibit A

FIREWORKS ORDINANCE / OAK HARBOR OCT. 4, 2011

On behalf of Soroptimist International of Oak Harbor, we respectfully request the Council consider amending the code or ordinance dealing with fireworks booths in Oak Harbor over the 4th of July.

Many surrounding towns & cities have banned fireworks sales and displays, yet "they" can come into Oak Harbor & take the profits from sales back to their own communities. Also, if more than 5 apply for a permit to sell fireworks, the names will be drawn at random...no matter how many years a certain group has been selling.

As long as Oak Harbor is going to allow fireworks sales, we feel the profits should STAY in Oak Harbor... SHOP OAK HARBOR is the motto. Please consider only allowing booths that will profit Oak Harbor to sell in Oak Harbor BEFORE issuing permits in January and booths that have a history of selling, be allowed permits before "newcomers".

Thank you,
Barbara Berry-Jacobs B Berry Jacobs
Sally Jacobs Sally J. Jacobs

Soroptimist International of Oak Harbor

Running Costs and Estimated Completion Costs

		Total to Date	Estimate to Finish	
	Pre-Construction Costs	$ 1,004,592	$ 1,004,592	Completed
	Roadway/City Utilities/Parking Alternate/Contingency	$ 3,017,415	$ 4,346,098	Includes $130,258.50 Change Orders
	City Share of PSE/Frontier Undergrounding	$ 70,600	$ 630,000	Current Contracts Equal $535,316
	Inspection/testing	$ 16,452	$ 23,012	Tracking Well
	Surveyor	$ 90,636	$ 147,385	Includes Projected Amendment Amount
	Construction Management	$ 269,658	$ 398,975	Tracking Well
	Other	$ 57,609	$ 185,000	Final Costs Likely to be Less than Budget
	Public Art (1% of project)	$ 19,804	$ 65,000	Council Approved Total to Date
	Construction Mitigation Outreach	$ 114,356	$ 167,500	Tracking Well
	Archaeology - Pioneer Way	$ 320,000	$ 565,000	Includes All Contracts plus Related Expenses
	Archaeology - Pit Road			Pending
	Project Engineering - Perteet/HBB	$ 24,959	$ 50,000	Tracking Well
	Reburial			Pending
	Total Project Cost	***$ 5,006,081***	***$ 7,582,562***	

Original Budget Resolution ***$ 8,300,000***

4-Oct-11

Exhibit B

City of Oak Harbor
City Council Agenda Bill

Bill No. _____

Date: _____

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

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

Agenda Bill No. _____
Date: October 18, 2011
Subject: Noise Permit – Living Word

FROM: Paul Schmidt, City Administrator

INITIALED AS APPROVED FOR SUBMITTAL TO THE COUNCIL BY:

_____ Jim Slowik, Mayor
_____ Doug Merriman, Finance Director
_____ Margery Hite, City Attorney, as to form

PURPOSE:

The purpose of this agenda bill is to forward to City Council for review and approval a Noise Permit request received from Living Word for amplified sound associated with a Trunk or Treat event scheduled for October 31, 2011.

AUTHORIZATION:

Oak Harbor Municipal Code (OHMC) 5.50.040(3)(g) provisions relating to Special Events, requires compliance with noise ordinance regulations and laws. OHMC 6.56.030(2)(a) requires Council approval for a noise permit for sound amplification. As this event will include amplified sound, Council approval is required.

The City Council may grant a Noise Permit to deviate from the provisions of OHMC 6.56.030 if it is determined the activity and associated noise: 1) is not undertaken in disregard of the rights of others, or 2) is temporary, or 3) the activity creating the noise constitutes a program of a temporary nature for the benefit of the entire municipality or for the benefit of a charitable purpose.

FISCAL IMPACT DESCRIPTION

N/A

SUMMARY STATEMENT:

Living Word has submitted a Noise Permit request for amplified sound associated with a Trunk or Treat event scheduled for October 31, 2011 at the Chevy Dealership located at 201 SE Pioneer Way. This is a free community event targeted for children and young families. The amplified sound will consist of a PA system for announcements and music.

The Application was reviewed by Fire, Police, and Public Works Departments.

STANDING COMMITTEE REVIEW:

Not required.

RECOMMENDED ACTION:

Approve the request for amplified sound by granting the noise permit.

ATTACHMENTS:

Noise Permit.

MAYOR'S COMMENTS:

CITY OF OAK HARBOR
NOISE PERMIT

Name of Organization:	Living Word
Location of Event:	Chevy Dealership - 201 SE Pioneer Way
Date of Event:	October 31, 2011
Hours of Operation:	6:00 p.m. – 8:30 p.m.
Permitted Noise:	Sound system for announcements and music
Approval Conditions:	None
Date of City Council Approval:	

Issued this day of , 2011.

_____

Karen Crouch, Special Events Coordinator

This Noise Permit is limited to the date and time specified.

Please post this notice on site

City of Oak Harbor
City Council Agenda Bill

Bill No. _____
Date: October 18, 2011
Subject: 2012 Legislative Priority Issues

FROM: Paul Schmidt, City Administrator

INITIALED AS APPROVED FOR SUBMITTAL TO THE COUNCIL BY:

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

PURPOSE

The purpose of this agenda bill is to seek approval of the draft Legislative Priority Issues for 2012.

AUTHORITY

The City Council has been granted the authority to plan and organize its internal affairs by RCW 35A.11.020.

SUMMARY STATEMENT

As a direct means in which to convey City of Oak Harbor wishes to the State Legislature for the upcoming Legislative session, we have prepared a resolution with an attached list of priority issues.

A resolution by City Council conveying its wishes to our Legislators is a more powerful message than by sending or voicing individual requests. Moreover, a resolution provides a concise listing as a priority of those needs the City Council deems crucial.

The attached 2012 Legislative Priority Issues list is a draft proposal until City Council approves the resolution, and as such is subject to change by the City Council.

STANDING COMMITTEE REPORT

The draft 2012 Legislative Priority Issues was presented to the Governmental Services Committee on October 11, 2011 and to the Finance Committee on October 12, 2011.

RECOMMENDED ACTION

Approve Resolution 11-14.

ATTACHMENTS

1. AWC Fact Sheet – Requiring the election of all municipal court judges
2. AWC Legislative Advocacy – Public Defense Rules
3. Resolution 11-14.

MAYOR'S COMMENTS

February 2011

Requiring the election of all municipal court judges

Over the past few years, the Board for Judicial Administration (BJA) has made the election of all municipal court judges one of its top legislative priorities. This year is no exception.

AWC continues to strongly oppose this effort. Please oppose SB 5630.

More than 130 cities choose to use the municipal court system, either as individual municipal courts or together with neighboring cities in a community court model. Of those, roughly 100 have part-time appointed judges. Approximately 50 of those cities operate a municipal court 15 hours or less a month, and another 20 cities operate their court 10 or fewer hours each week. For these cities with very limited court hours, the process of electing a judge simply does not make sense. While the BJA points to a handful of concerns with appointed judges, the overwhelming evidence indicates:

- Appointed judges just as independent as elected judges.
- Appointed judges are ethical.
- Elections do not result in more qualified judges.
- Elections do not address the BJA's concerns with appointed judges.

Appointed judges are just as independent as elected judges

The BJA maintains the only means to ensure an independent judiciary is to elect all judges. Cities are fully supportive of an independent judiciary in order for our system of government to work, yet we disagree election ensures that. Research commissioned by the Administrative Office of the Courts (AOC) found that appointed judges are as independent as elected judges. Additionally, appointed judges do not have to raise money for campaigns. One survey found that 76% of all citizens believe campaign contributions affect a judge's courtroom decisions.

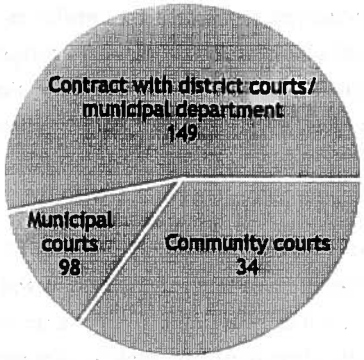
Appointed judges are ethical

Appointed judges are subject to the same rules of judicial conduct and are not disciplined at higher rates than elected judges. Rather than rely on anecdotal information, AWC looked at the number of sustained disciplinary actions against elected and appointed judges in Washington State. Over the past two years, the Washington Commission on Judicial Conduct sustained disciplinary actions against ten municipal, district, and superior court judges. Although they comprise roughly 18% of all judges in Washington State, only one disciplinary action was taken against an appointed municipal court judge.

Proponents of electing all judges express concern that appointed judges do not report to the Public Disclosure Commission (PDC) as elected judges do, and, therefore, are not subject to the same ethics rules. This argument is without merit.

continued

Types of courts



The single greatest threat to judicial independence is the flood of money coming into our courtrooms by way of increasingly expensive and volatile judicial election campaigns. You haven't suffered too much of that in Washington - but you will if you don't think about this and change it.

~Retired U.S. Supreme Court Justice Sandra Day O'Connor

Association of Washington Cities
1076 Franklin St SE, Olympia, WA 98501
www.awcnet.org

Elected officials are required to report to the PDC because they raise campaign funds. Appointed judges do not report because they are not elected and do not accept or solicit campaign funds.

Elections do not result in a more qualified judge

The city officials who review judicial candidates are keenly aware of the need to select a judge who will uphold justice for their community. An appointing authority has the advantage of interviewing candidates, reviewing experience and education, and speaking to references. Because the appointing authority is made up of elected officials, they are accountable to the voters.

In contrast, judges are elected by citizens who rarely are provided enough information to make a thoughtful decision. Due to the restrictions of the Judicial Code of Conduct, judges can't campaign the way other elected officials do, because they are prohibited from sharing views and concerns. Therefore, voters are faced with electing a judge with very little information, and voter participation significantly declines for judicial races – by 20% in the most recent municipal judge elections in Washington State.

Most judges run unopposed. In 2009, over 80% of Washington's municipal court judges did not face opposition at the polls. Many cities fear elections would reduce the pool of qualified candidates, and some current well-qualified appointed judges would choose not to seek an elected position. A Washington State University study found nearly 75% of Washington attorneys had not seriously considered running for judicial office – they didn't want to offend a sitting judge, incur the financial and time expense of a campaign, and had a distaste for campaigning. But nearly half of the 75% said they would probably or definitely accept an appointment to the bench.

Elections do not address the BJA's concerns with appointed judges.

The BJA points to organizational charts, budget constraints, and judges not being reappointed as evidence that appointed judges are not independent. However, the "issues" they raise could occur just as easily with an elected judge.

They point to one city's organizational chart showing the appointed judge reporting to the mayor as proof of a judicial branch that is not independent. What this does not acknowledge is that some cities with elected judges have organizational charts that do not accurately illustrate the court's separation. Is this proof of a lack of independence? No. It is simply a matter of charts that do not reflect the true structure – and independence – of the three branches of government.

Another allegation is that city executive and legislative branches place pressure on judges to make decisions based on fiscal reasons. Judges, whether elected or appointed, must operate their court within a legislatively-approved budget – just like any other part of government. Right now, many cities are cutting budgets for all services, even the most essential ones.

The BJA further argues that appointment decisions are being made based on judicial decisions. This fails to acknowledge that appointed judges serve under a contract. When the contract ends, the city considers all qualified applicants and may choose to appoint another judge for any number of reasons. The BJA seems to be suggesting that once appointed, judges should be able to serve until they no longer desire to.

Appointed judges receive highest rating

In 2010, Washington State University conducted a survey for the King County Bar Association, which allowed more than 2,500 attorneys to evaluate 51 judges in King County on four categories:

- Legal decision making
- Demeanor, temperament & communication
- Administrative skills
- Integrity & impartiality

While King County judges overall received high ratings, appointed municipal court judges received higher ratings in all four categories than King County District Court judges and elected municipal court judges.

AWC contacts

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Serena Dolly
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AWC ASSOCIATION OF WASHINGTON CITIES

1076 Franklin St SE
Olympia, WA 98501
www.awcnet.org

Legislative Advocacy

Public Defense Rules

September update

Cities and AWC remain extremely concerned about the adoption of the proposed indigent defense standards and are asking all cities to weigh in with the Supreme Court. The court is accepting comments on the proposed rule until October 31, 2011. Please take this opportunity to share your city's concerns with the court and express support for AWC's alternative recommendation.

Background

In 2010 the Washington Supreme Court adopted changes to court rules requiring public defense attorneys to certify that they meet specific standards for indigent defense services. The rule was originally scheduled to take effect on September 1, 2010, but was postponed to provide time to develop the standards. The court then asked the Washington State Bar Association (WSBA) to recommend a set of standards for further consideration. The WSBA has long had a set of standards in place that have served as guidelines for attorneys. Additionally, all courts of limited jurisdiction are required to adopt their own set of standards.

AWC opposed the original rule adoption out of concerns that it would be difficult to implement due to lack of clarity, would not result in more effective representation, and would be costly. AWC and the Washington State Association of Counties jointly proposed alternative standards to the court without success.

While cities are committed to providing effective public defense counsel, it is doubtful that the new proposed standards will achieve the state goal of improving the quality of public defense. RCW 10.101.030 already requires local governments to adopt standards for public defense. The new proposed standards appear to be an attempt to preempt traditional legislative decision making, such as budgeting and determining which cases should be prosecuted. There are many issues with the proposed standards, including:

- The inclusion of caseload limits. The current proposal doesn't yet contain specific caseload limits for misdemeanant cases, but a subsequent WSBA recommendation does include a limit of 300 to 400 cases depending on the local adoption of a weighting system. There is no basis for this limit. The caseload limit, along with the weighting system, are arbitrary and have no practical impact on the quality of legal counsel provided to indigent defendants. Many skilled attorneys can easily manage a heavy caseload while still providing effective assistance of counsel (the legal term of art for quality representation). Conversely, those less competent attorneys are unable to provide effective counsel with an even lighter caseload.
- Phrases like "quality representation" and "average complexity and effort" are vague and poorly defined or undefined, making it impossible for any attorney to certify compliance.
- A requirement that attorneys have an office and telephone services fails to recognize modern communication practices such as email, as well as the practical reality that many very qualified public defenders travel to multiple jurisdictions to represent and meet with clients and consequently do not keep a traditional office.
- Limitations on attorneys with private practice that may drive many of the most qualified out of the field, resulting in fewer experienced attorneys serving as public defenders.

July update

On July 13, 2011, the Washington Supreme Court published the WSBA recommended standards for indigent defense for public comment. In addition, the Court delayed the effective date of the court rules until January 2012; they had been scheduled to take effect on September 1, 2011.

As mentioned in our June update, the standards do not include specific misdemeanor caseload limits, but the Council on Public Defense continues to work on a misdemeanor standard for possible inclusion in the future.

The Court is accepting comments on the proposed rules until October 31, 2011. The proposed rules and instructions on how to comment can be found on the Administrative Office of the Courts (AOC) website.

June update

On June 3, the Washington State Bar Association (WSBA) Board of Governors adopted proposed certification standards for public defenders. The Washington Supreme Court will consider the WSBA proposal in adopting new Standards for Indigent Defense this fall as required by CrRLJ 3.1, which is expected to include a public comment period. The proposed standards do not include specific misdemeanor caseload standards as previous proposals had, which alleviates one of the primary concerns of cities and counties. However, the WSBA's proposal also indicated that the Council on Public Defense is continuing to develop a misdemeanor caseload limit for CrRLJ 3.1 for possible recommendation in a future amendment.

WSBA's proposal can be found here, and the specific Standards for Indigent Defense Services referenced in the proposal can be found here.

AWC will continue to follow this issue as the Supreme Court takes up consideration of a final certification standard.

RESOLUTION NO. 11-14

A RESOLUTION BY THE CITY OF OAK HARBOR IDENTIFYING 2012 WASHINGTON STATE LEGISLATIVE PRIORITY ISSUES

WHEREAS, the City of Oak Harbor has a keen interest in how the Washington State Legislature actions can and do impact the City; and

WHEREAS, it is the City's intention to work with the Governor's Office and the leadership throughout the Senate and House with specific help from the City's 10th District Legislators, and

WHEREAS, the City of Oak Harbor has a good positive working relationship with the current 10th District Legislators; and

WHEREAS, this positive working relationship does depend upon the frequent and ongoing exchange of information where the specific needs and priorities of the City of Oak Harbor are clearly expressed to our 10th District Legislators; and

WHEREAS, by the attached Exhibit "A" the City of Oak Harbor wishes to extend to Washington State Senator Haugen, Representative Smith, and Representative Bailey the City of Oak Harbor's 2012 Legislative Priority Issues.

NOW THEREFORE BE IT RESOLVED, by the City Council of the City of Oak Harbor, Washington, that the attached Exhibit "A" is hereby adopted as the 2012 Legislative Priority Issues of the City of Oak Harbor.

PASSED by the City Council of the City of Oak Harbor and approved by its Mayor this 18th Day of October, 2011.

CITY OF OAK HARBOR

_____
MAYOR

ATTEST:

_____
City Clerk

Approved as to Form:

_____
City Attorney

EXHIBIT "A"

CITY OF OAK HARBOR 2012 LEGISLATIVE PRIORITY ISSUES

1. **Retain** CAPRON Transportation funding as a critical resource for Whidbey Island surface transportation needs.

2. **Continue** to retain and support funding for the Public Works Trust Fund Program.

3. **Refrain** from supporting any Legislative proposals that would establish a mandate upon local government without providing the necessary funds to fully support the mandate.

4. **Support** a Legislative effort to limit local government liability and financial burdens caused by unlimited public records requests.

5. **Support** a Legislative effort to **continue** planning for the definite replacement of the Deception Pass Bridge.

6. **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.

7. **Continue** to support Legislative efforts to provide ongoing funding assistance for Phase II cities subject to NPDES storm water regulation and permitting.

8. **Refrain** from supporting any Legislative proposal that requires the election of all municipal court judges.

9. **Support** Legislation that better clarifies and retains Legislative decision making for determining reasonable and cost effective indigent defense services rules.

10. **Continue** to be diligent in addressing the State budget crisis without transferring State obligations onto local government.

11. **Continue** to support Legislation that provides flexibility at the point of collecting development impact fees.

City of Oak Harbor
City Council Agenda Bill

Agenda Bill No. _____
Date: October 18, 2011
Subject: Fairway Point Division 3 Preliminary Plat Request for Extension

FROM: Steve Powers RSP
Development Services Director

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

PURPOSE:
This agenda bill seeks City Council action on a request for an extension of the Fairway Point Division 3 Preliminary Plat which expires on October 19, 2011. The request was made by Mr. Robert Fakkema on behalf of both owners of the property, on September 23, 2011, before the plat expires (Attachment 3). Mr. Robert Fakkema and Mr. Ryan Kingma are the current owners of the property of record while Landed Gentry Development Inc. has historically been the owner of record. Receipt of Mr. Fakkema's letter prior to the expiration date ensures that the one year extension can be considered as a timely request.

AUTHORITY
RCW 58.17.140 provides the authority for the time limitation on plats including allowing up to seven years for final plat submittal from the date of preliminary plat approval. The authority to grant a time extension for a maximum of one year is provided by OHMC 21.40.020(2). The said extension shall be conditioned upon the plat meeting all subdivision requirements which are in effect at the time the extension is granted and upon a showing that the applicant has attempted in good faith to submit the final plat within the seven-year period.[1]

SUMMARY STATEMENT
On October 19, 2004, the Oak Harbor City Council approved the Preliminary Plat for Fairway Point PRD (Attachment 1), located along SW Fort Nugent Avenue just west of Whidbey Golf and Country Club. Per OHMC 21.40.020(1), the application for the final plat shall be submitted within seven[2] years of the preliminary plat approval. The City sent a courtesy letter to the applicant on September 13, 2011 informing them that the preliminary plat would expire soon. The applicant's response letter (Attachment 3) cited that the recent downturn of the economy and the residential housing market has precluded them from completing the project.

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[1] OHMC 21.40.020(2) refers to a five-year period however State regulations changed in 2010 to allow for a seven-year time frame. State law preempts City regulations thus the seven-year timeframe now applies.
[2] OHMC 21.40.020(1) refers to five years however this is preempted by State law allowing for seven; the same as above.

PROJECT INFORMATION

Owner(s):	Ryan Kingma and Robert Fakkema
Location:	SW Fort Nugent Avenue west of Whidbey Golf and Country Club
Zoning:	R-1 Single-family Residential with PRD overlay
Comprehensive Plan Designation:	Low-Density Residential
Site Area:	36 acres (total site)
Units:	140 single family residential lots (total site)
Density:	3.8 dwelling units per acre (total site)
Open Space:	3.6 acres (total site)

PROJECT DESCRIPTION

The Fairway Point PRD Preliminary Plat is a 140-lot plat and Planned Residential Development located on SW Fort Nugent Avenue west of Whidbey Golf and Country Club (Attachment 2). Division 3 of the PRD contains 39 of the overall 140 lots with lot sizes ranging from 5,500 square feet to 14,520 square feet for this particular division. Division 3 contains the public road connection of SW Fairway Point Drive with Fairway Lane, three open space tracts; including one with a wetland and pedestrian trails, a private road, and a fire-truck turnaround.

CITY COUNCIL REVIEW

The Oak Harbor Municipal Code provides for an extension of plat approval with the City Council responsible for making a final decision. The review standard for approval of a plat extension is a showing that the applicant has attempted in good faith to submit the final plat within the seven-year period.

The preliminary plat of Fairway Point PRD which included all divisions was approved on October 19, 2004. The City approved the Temporary Erosion and Sediment Control (TESC) Plan for all divisions on May 26, 2005 and civil plans for all the divisions were approved by the City on August 3, 2005. As of the date of this agenda bill, work completed on-site includes construction of Phases 1, 1a, 2, and 4. In addition, limited land clearing of Division 3 (mainly in the right-of-way) was conducted in 2005. Construction of the entire subdivision is not yet complete and a final plat for Division 3 has not been submitted or approved.

The actions above demonstrate effort in moving towards final plat approval and are sufficient in showing that the applicant has attempted in good faith to meet the requirements for submitting the final plat within seven years.

RECOMMENDED ACTIONS:

1. Approve the resolution for a one-year extension for the submittal of a final plat for the Fairway Point Division 3 Preliminary Plat.

ATTACHMENTS:

Attachment 1: Fairway Point Preliminary Plat Resolution #05-08, Approved October 19, 2004
Attachment 2: Fairway Point Preliminary Plat Drawing Set – 7 sheets, Submitted September 23, 2004
Attachment 3: Letters to/from the City and applicant regarding extension requests.
Attachment 4: Resolution approving Fairway Point Division 3 Preliminary Plat Extension

MAYOR'S COMMENTS:

RESOLUTION NO. 05-08

A resolution approving the preliminary plat of Fairway Point and authorizing filing thereof subject to conditions imposed.

WHEREAS, a public hearing was held by the Planning Commission on September 28, 2004, on the below described plat and the City Council having approved the same and adopted the Findings of the Planning Commission by reference (and providing that approval is subject to certain conditions);

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Oak Harbor, Washington:

Section 1:

General

The preliminary plat of Fairway Point consisting of a 140 lot Planned Residential Development (PRD) located at west of Whidbey Island Golf and Country Club, on the north side of 1Ft. Nugent Road., under City file number PPL 04-00004, a copy of the map which is hereto attached and by reference made a part hereof, is hereby approved subject to the following conditions being met, or satisfactory assurances are provided to meet the requirements, before the final plat may be filed:

1. Development of the Fairway Point PRD shall be in general conformance with the following submitted plans:
   a. Preliminary PRD Drawing Set – 5 sheets, Submitted September 23, 2004
   b. Preliminary Plat Drawing Set – 7 sheets, Submitted September 23, 2004
   c. Wetland Buffer Mitigation Drawing Set – 2 sheets, Submitted September 23, 2004

2. Typical lot landscaping, including street trees, as indicated on the PRD drawings must be installed on each lot at the time they are developed prior to final occupancy being granted.

Impact and Mitigation

3. The developer shall be required to pay the community park impact fee prior to the issuance of any building permit. The community park impact fee shall be $472.00 for each residential lot.
4. The developer shall be required to pay the neighborhood park impact fee of $197.00 for each residential lot prior to the issuance of any building permit.
5. The developer shall be required to pay transportation impact fees of $907.00 per residential unit for each of the 140 new residences proposed prior to the issuance of any building permit.
6. The developer shall be required to successfully pass the Traffic Concurrency Test for the proposed plat prior to Final Plat approval.

7. All improvements deemed necessary as part of the final traffic analysis and Traffic Concurrency Test must be complete and accepted prior to Final Plat approval.
8. All mitigation measures identified in the wetland buffer area restoration plan must be complete and accepted prior to Final Plat approval.
9. The Application for relief of the Notice of Moratorium on Non-Forestry Use of Land must be approved prior to Final Plat approval.

Engineering

10. Following approval of the Preliminary Plat, construction plans must be submitted to and approved by the Engineering Department prior to commencing any construction activities. These plans must include all street and frontage improvements (including sidewalk, curb, gutter, paving, traffic control, storm drainage, and street illumination) and all existing and proposed utilities including, but not limited to water, sewer, storm drainage (including a site drainage analysis), power, telephone, cable, and gas. All proposed improvements must meet the City of Oak Harbor standards for materials and installation practices. (OHMC 21.40.010).
11. The Applicant shall provide proof of any and all recorded easements necessary to complete the proposed development and associated utility extensions prior to approval of construction plans and/or Final Plat.
12. All proposed on and off site improvements associated with this project must be completed and accepted prior to final plat approval. This includes the half street improvements along Ft. Nugent Ave required as part of the annexation agreement. A Performance Bond, in the amount of 112% of the cost to construct required, uninstalled, improvements may be posted in lieu of installation of the improvements, provided, such a bond is approved by the City Engineer. (OHMC 21.30.010)
13. As per the Annexation agreement, the proposal is subject to and must comply with the Golf Course Drainage Basin Stormwater Mitigation Study. Easements, where applicable, must be provided by the Owner for existing drainage facilities. Owner will be responsible for all required on-site costs of storm water drainage and retention facilities or will provide for alternative off-site drainage per the Golf Course Drainage Basin Stormwater Mitigation Study.
14. The intersection required for access to the plat located at Fairway Drive shall be engineered to correct the unusual street configuration at this location while creating a traffic barrier such as a barrier curb designed per WSDOT standards and approved by the City engineer for installation at the curb section adjacent to the existing lot 5 of Whidbey Country Club Estates and in front of the proposed lots 127 and 128 of Fairway Point. A regular intersection/entrance for the subdivision and shall be constructed to City standards prior to Final Plat approval.

Fire

15. As per the Annexation agreement, for each residential unit, or equivalent hereof, developed on the Property, the Owner of the Property shall pay Two Hundred Dollars ($200.00) for development of a fire protection station in the area.

16. Plans and specifications for fire hydrant system shall be submitted to the fire department for review and approval prior to construction as per UFC 901.2.2.2.
17. Fire apparatus access roads shall be provided and maintained in accordance with locally adopted street, road, and access standards. UFC 902.1 WA Amendments.
18. That staff will work with the Developer and affected property owners to facilitate a landscape buffer at a dimension of no less than 10 feet at the common property line between lots 2, 3, 4, and 5 of Whidbey Country Club Estates and lots 126, 125, 124, 123, 122, and 121 of Fairway Point, and in the alternative, the property owners and the developer, through the planning staff, mat mutually develop a buffer, i.e. a fence or landscape buffer on existing private properties of Whidbey Country Club Estates lots 2, 3, 4, and 5.

PASSED by the City Council and approved by its Mayor this _____ day of _____, 2004.

THE CITY OF OAK HARBOR

_____
Mayor

Attest:

_____
City Clerk

Approved as to Form:

_____
City Attorney

PRELIMINARY
PLAT OF FAIRWAY POINT P.R.D.
SECTION 4, TOWNSHIP 32 N., RANGE 1 E., W.M.
OAK HARBOR, WASHINGTON

LEGAL DESCRIPTION

PARCEL "A"

THAT PORTION OF THE SOUTH 1/2 OF SECTION 4, TOWNSHIP 32 NORTH, RANGE 1 EAST, W.M., INCLUDING THE PLAT OF WHIDBEY COUNTRY CLUB ESTATES, DIV. NO. 3, AS PER PLAT RECORDED IN VOLUMN 12 OF PLATS, PAGE 57, RECORDS OF ISLAND COUNTY, WASHINGTON, DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF THE SOUTHWEST 1/4 OF SAID SECTION 4: THENCE SOUTH 89° 35' 47" EAST ALONG THE NORTH LINE OF SAID SOUTHWEST 1/4, A DISTANCE OF 375.57 FEET TO THE NORTHWEST CORNER OF THE PLAT OF WHIDBEY COUNTRY CLUB ESTATES, DIV. NO. 2 AS PER PLAT RECORDED IN VOLUME 9 OF PLATS, PAGE 50, RECORDS OF ISLAND COUNTY, WASHINGTON: THENCE SOUTHERLY AND EASTERLY ALONG THE WESTERLY AND SOUTHERLY BOUNDARIES OF SAID PLAT THE FOLLOWING COURSES AND DISTANCES: SOUTH 00° 04' 13" WEST 340.00 FEET; THENCE SOUTH 11° 14' 18" WEST 191.24 FEET; THENCE SOUTH 69° 21' 51" EAST 136.59 FEET; THENCE SOUTH 89° 53' 00" EAST 60.00 FEET; THENCE SOUTH 58° 50' 00" EAST 157.44 FEET TO THE SOUTHEASTERLY CORNER OF LOT 44 OF THE AFORESAID PLAT; THENCE LEAVING THE BOUNDARY OF SAID PLAT SOUTH 31° 10' 00" WEST 105.00 FEET; THENCE SOUTH 63° 06' 09" EAST 307.51 FEET; THENCE SOUTH 39° 03' 36" EAST 245.58 FEET; THENCE SOUTH 59° 24' 14" EAST 133.60 FEET; THENCE NORTH 81° 21' 15" EAST 360.00 FEET; THENCE SOUTH 89° 32' 41" EAST PARALLEL WITH THE SOUTH LINE OF THE NORTH 1/2 OF THE AFORESAID SOUTHWEST 1/4, A DISTANCE OF 795.00 FEET; THENCE SOUTH 30° 24' 36" EAST 190.00 FEET; THENCE SOUTH 00° 46' 10" WEST PARALLEL WITH THE EAST LINE OF THE AFORESAID SOUTHWEST 1/4, A DISTANCE OF 1,387.60 FEET TO THE NORTHERLY MARGIN OF FORT NUGENT ROAD; THENCE NORTH 89° 49' 22" WEST ALONG SAID NORTHERLY MARGIN, A DISTANCE OF 160.01 FEET TO THE EAST LINE OF THE AFORESAID SOUTHWEST 1/4; THENCE NORTH 00° 48' 10" EAST ALONG THE SAID EAST LINE OF THE SOUTHWEST 1/4, A DISTANCE OF 1,301.10 FEET TO THE NORTHEAST CORNER OF THE SOUTHEAST 1/4 OF THE AFORESAID SOUTHWEST 1/4; THENCE NORTH 89° 52' 41" WEST 1,682.13 FEET TO THE SOUTHWEST CORNER OF THE NORTHWEST 1/4 OF THE AFORESAID SOUTHWEST 1/4; THENCE NORTH 01° 10' 43" EAST 1,318.84 FEET TO THE POINT OF BEGINNING.
EXCEPT ROADS.

PARCEL "B"

THE EAST HALF OF THE SOUTHEAST QUARTER OF THE SOUTHWEST QUARTER IN SECTION4, TOWNSHIP 32 NORTH, RANGE 1, EAST OF THE WILLAMETTS MERIDIAN. EXCEPT COUNTY ROAD ALONG THE SOUTH LINE THEREOF ALSO EXCEPT ANY PORTION THEREOF LYING WITHIN THE WEST HALF OF THE SOUTHEAST QUARTER OF THE SOUTHEAST QUARTER OF THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER IN SECTION 4, TOWNSHIP 32 NORTH, RANGE 1, EAST OF THE WILLAMETTE MERIDIAN SITUATED IN ISLAND COUNTY, STATE OF WASHINGTON.

EASEMENT PROVISION

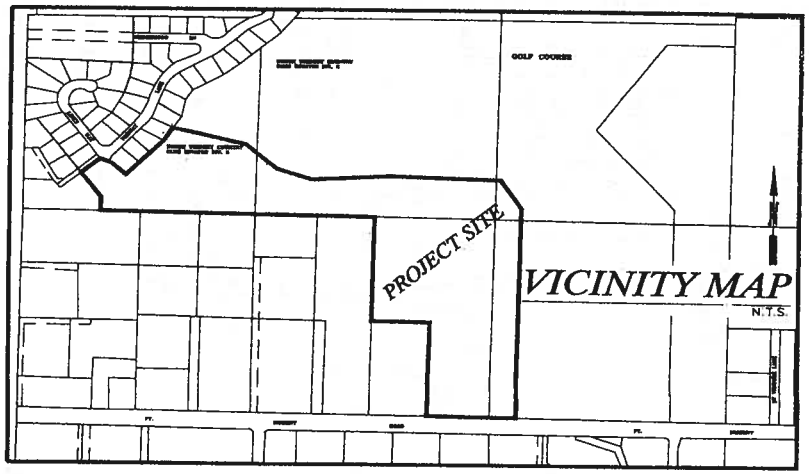
AN EASEMENT IS HEREBY RESERVED FOR AND GRANTED TO THE CITY OF OAK HARBOR, PUGET SOUND ENERGY, VERIZON TELEPHONE CO. OF THE NORTHWEST, CASCADE NATURAL GAS CORPORATION, U.S. POSTAL SERVICE, AT&T TELECOMMUNICATIONS INC., AND THEIR RESPECTIVE SUCESSORS AND ASSIGNS UNDER AND UPON THE PRIVATE ROADWAYS, PUBLIC STREETS AND UTILITIES EASEMENTS (10') SHOWN HEREON, AND ALONG THE ROUTE OF THE AS BUILT OR YET TO BE BUILT UTILITY ALIGNMENTS, IN WHICH TO INSTALL, LAY, CONSTRUCT, RENEW, OPERATE, MAINTAIN AND REMOVE UTILITY SYSTEMS, LINES FIXTURES, AND APPURTENANCES ATTACHED THERETO, FOR THE PURPOSE OF PROVIDING UTILITY SERVICES TO THE LOTS WITHIN THIS P.R.D. AND OTHER PROPERTY AS MAY BE DEVELOPED IN ASSOCIATION WITH EXPANSIONS TO THIS P.R.D., TOGETHER WITH THE RIGHT TO ENTER UPON THE LOTS AT ALL TIMES FOR THE PURPOSES STATED, WITH THE UNDERSTANDING THAT ANY GRANTEE SHALL BE RESPONSIBLE FOR ALL UNNECESSARY DAMAGE IT CAUSES TO ANY REAL PROPERTY OWNER IN THIS P.R.D. OR TO THE HOMEOWNERS ASSOCIATION BY THE EXERCISE OF RIGHTS AND PRIVILEGES HEREIN GRANTED.

AN ADDITIONAL EASEMENT IS HEREBY RESERVED TO PUGET SOUND ENERGY, INC., THAT RESTRICTS INSTALLATION OF DRIVEWAYS, PARKING SPACES, AND ANY OTHER VEHICULAR ACTIVITIES WITHIN A FIVE (5) FOOT PERIMETER AROUND ELECTRIC VAULTS, TRANSFORMERS, PEDESTALS, AND HANDHOLDS LOCATED WITHIN SAID P.R.D., ALSO AN EASEMENT RESTRICTION TO MAINTAIN A TEN (10) FOOT CLEARANCE BETWEEN SAID ELECTRIC TRANSFORMERS AND COMBUSTIBLE WALLS (INCLUDING STUCCO), DOORS, WINDOWS, VENTS, FIRE ESCAPES AND OTHER BUILDING OPENING AND A THREE (3) FOOT CLEARANCE BETWEEN SAID ELECTRIC TRANSFORMERS AND NON-COMBUSTIBLE WALLS (INCLUDING BRICK, CONCRETE, STEEL AND STONE).

ACKNOWLEDGEMENT

STATE OF_____
COUNTY OF_____
THIS IS TO CERTIFY THAT ON THE _____ DAY OF _____, 2004, BEFORE ME, THE UNDERSIGNED, A NOTARY PUBLIC, HAVE PERSONALLY APPEARED
OF_____ A_____
CORPORATION, TO ME KNOWN TO BE THE REPRESENTATIVES OF SAID CORPORATION WHO EXECUTED THE WITHIN AND FOREGOING DEDICATION AND ACKNOWLEDGED THE SAID INSTRUMENT TO BE THE FREE AND VOLUNTARY ACT AND DEED OF SAID CORPORATION FOR THE USES AND PURPOSES THEREIN MENTIONED, AND ON OATH STATED THAT THEY WERE THE INDIVIDUALS AUTHORIZED TO EXECUTE THE SAID INSTRUMENT AND THAT THE SEAL AFFIXED IS THE CORPORATE SEAL OF SAID CORPORATION. WITNESS MY HAND AND OFFICAL SEAL THE DAY AND YEAR FIRST MENTIONED ABOVED.

NOTARY PUBLIC IN AND FOR THE STATE OF
_____RESIDING AT_____



DECLARATION

KNOW ALL MEN BY THESE PRESENT THAT THE UNDERSIGNED DEVELOPER(S) HEREBY CERTIFY THAT THE ATTACHED PLANNED RESIDENTIAL DEVELOPMENT, PLAT OF "FAIRWAY POINT" P.R.D. IS MADE AS OUR FREE AND VOLUNTARY ACT AND DEED.

WHIDBEY WESTWOOD, LLC.

COVENANTS, CONDITIONS, RESERVATIONS AND RESTRICTIONS

FILED UNDER AF# _____

PARCEL NUMBER

R13204-164-0800
R13204-095-2470

TITLE CERTIFICATE

RECORDED UNDER A.F.# _____

DEVELOPERS/OWNERS

WHIDBEY WESTWOOD, LLC.
% LANDED GENTRY DEVELOPMENT, INC.
504 E. FAIRHAVEN AVENUE
BURLINGTON, WA 98233
(360) 755-9021

NOTES:

1. LOTS 1, 44, 45 AND 66 ARE RESTRICTED TO ACCESS FROM THE NEW PUBLIC ROAD. NO ACCESS TO FORT NUGENT ROAD IS PERMITTED.
2. TRACTS 998, 999, A, B, C, D, E, F, AND G, AS SHOWN HEREON ARE HEREBY RESERVED FOR THE LANDSCAPING PURPOSE. THESE TRACTS SHALL BE FREE OF ALL STRUCTURES, I.E. COVERED PARKING, DECKS, OVERHANGS, SHEDS, ETC. ALSO, NO DUMPING OF ANY KIND INCLUDING GRASS CLIPPINGS. ONLY THOSE COMMUNITY IMPROVEMENTS IDENTIFIED ON THE FACE OF THE APPROVED PRD PLANS MAY BE CONSTRUCTED WITHIN AREAS OF SAID TRACTS.
3. THE HOMEOWNERS ASSOCIATION SHALL BE RESPONSIBLE FOR THE MAINTENANCE OF TRACTS 998, 999, A, B, C, D, E, F, AND G AS SHOWN HEREON; IN THE EVENT THE HOMEOWNERS ASSOCIATION IS DISBANDED, THE RESPONSIBILITY FOR SAID MAINTENANCE SHALL BE EQUALLY SHARED BY THE HOMEOWNERS.
4. THE RIGHT OF USE AND ACCESS SHALL BE SHARED BY ALL HOMEOWNERS ASSOCIATION MEMBERS AND THEIR GUESTS UNLESS RESTRICTED AT THE DISCRETION OF THE HOMEOWNERS ASSOCIATION BOARD OF DIRECTORS FOR PURPOSES OF, BUT NOT LIMITED TO, ISSUES OF SAFETY AND MAINTENANCE.
5. THE INFORMATION CONTAINED IN THESE NOTES 1 THROUGH 5, INCLUSIVE SHALL BE REFLECTED IN THE ADOPTED CC&R DOCUMENTS FOR THIS PLAT.
6. TRACT 997 IS A PROTECTED WETLAND AREA AND ASSOCIATED BUFFER; ACCESS IS RESTRICTED TO THE WETLAND BUFFER TRAIL AREA ONLY; NO MOTORIZED VEHICLES ARE ALLOWED TO ENTER SAID TRACT; REMOVAL OF VEGETATION IS RESTRICTED; THE AREA SHALL REMAIN A NATURALLY VEGETATED AND PROTECTED HABITAT AREA.

SURVEYOR'S CERTIFICATE

I HEREBY CERTIFY THAT THE PLAT OF "FAIRWAY POINT" P.R.D. IS BASED UPON AN ACTUAL SURVEY AND SUBDIVISION OF SECTION 4, TOWNSHIP 32 NORTH, RANGE 1 EAST W.M.; THAT THE COURSES AND DISTANCES ARE SHOWN CORRECTLY THEREON; THAT THE MONUMENTS HAVE BEEN SET AND THE LOT AND BLOCK CORNERS STAKED CORRECTLY ON THE GROUND; AND THAT I HAVE FULLY COMPLIED WITH THE PROVISIONS OF THE STATUTES AND PLATTING REGULATIONS.

YOUNG-SOO KIM, P.L.S. #32169

YOUNG-SOO KIM
STATE OF WASHINGTON
REGISTERED PROFESSIONAL LAND SURVEYOR
EXPIRES 1/24/2005

SHEET 1 OF 7

ACKNOWLEDGEMENT

STATE OF_____
COUNTY OF_____
THIS IS TO CERTIFY THAT ON THE _____ DAY OF _____, 2004, BEFORE ME, THE UNDERSIGNED, A NOTARY PUBLIC, HAVE PERSONALLY APPEARED
OF_____ A_____
CORPORATION, TO ME KNOWN TO BE THE REPRESENTATIVES OF SAID CORPORATION WHO EXECUTED THE WITHIN AND FOREGOING DEDICATION AND ACKNOWLEDGED THE SAID INSTRUMENT TO BE THE FREE AND VOLUNTARY ACT AND DEED OF SAID CORPORATION FOR THE USES AND PURPOSES THEREIN MENTIONED, AND ON OATH STATED THAT THEY WERE THE INDIVIDUALS AUTHORIZED TO EXECUTE THE SAID INSTRUMENT AND THAT THE SEAL AFFIXED IS THE CORPORATE SEAL OF SAID CORPORATION. WITNESS MY HAND AND OFFICAL SEAL THE DAY AND YEAR FIRST MENTIONED ABOVED.

NOTARY PUBLIC IN AND FOR THE STATE OF
_____RESIDING AT_____

RECEIVED
SEP 23 2004
CITY OF OAK HARBOR
Development Service Department

ACKNOWLEDGEMENT

STATE OF_____
COUNTY OF_____
THIS IS TO CERTIFY THAT ON THE _____ DAY OF _____, 2004, BEFORE ME, THE UNDERSIGNED, A NOTARY PUBLIC, HAVE PERSONALLY APPEARED
OF_____ A_____
CORPORATION, TO ME KNOWN TO BE THE REPRESENTATIVES OF SAID CORPORATION WHO EXECUTED THE WITHIN AND FOREGOING DEDICATION AND ACKNOWLEDGED THE SAID INSTRUMENT TO BE THE FREE AND VOLUNTARY ACT AND DEED OF SAID CORPORATION FOR THE USES AND PURPOSES THEREIN MENTIONED, AND ON OATH STATED THAT THEY WERE THE INDIVIDUALS AUTHORIZED TO EXECUTE THE SAID INSTRUMENT AND THAT THE SEAL AFFIXED IS THE CORPORATE SEAL OF SAID CORPORATION. WITNESS MY HAND AND OFFICAL SEAL THE DAY AND YEAR FIRST MENTIONED ABOVED.

NOTARY PUBLIC IN AND FOR THE STATE OF
_____RESIDING AT_____

APPROVALS

EXAMINED AND APPROVED THIS_____DAY OF_____2004.

OAK HARBOR CITY ENGINEER

APPROVED BY THE COUNCIL OF THE CITY OF OAK HARBOR, WASHINGTON THIS_____DAY OF _____ 2004.

MAYOR OF OAK HARBOR CLERK OF OAK HARBOR

I HEREBY CERTIFY THAT THERE ARE NO DELINQUENT SPECIAL ASSESSMENTS AND ALL SPECIAL ASSESSMENTS ON ANY OF THE PROPERTY HEREIN CONTAINED DEDICATED AS STREETS, ALLEYS OR FOR OTHER PUBLIC USE ARE PAID IN FULL.

THIS_____DAY OF _____2004.

DOUGLAS A. MERRIMAN
OAK HARBOR FINANCE DIRECTOR

TREASURER'S CERTIFICATES

THIS IS TO CERTIFY THAT ALL TAXES HERETOFORE LEVIED AND WHICH HAVE BECOME A LIEN UPON THE LANDS HEREIN DESCRIBED, HAVE BEEN FULLY PAID AND DISCHARGED, ACCORDING TO THE RECORDS OF MY OFFICE, UP TO AND INCLUDING THE YEAR OF 2004.

ISLAND COUNTY TREASURER

AUDITOR'S CERTIFICATE

FILED FOR RECORD AT THE REQUEST OF _____
THIS_____DAY OF_____2004 AND RECORDED IN PLATS, UNDER AUDITOR'S FILE NO._____, RECORDS OF ISLAND, COUNTY, WASHINGTON.

ISLAND COUNTY AUDITOR DEPUTY COUNTY AUDITOR

02062

SUMMIT ENGINEERS & SURVEYORS, INC.
2218 OLD HIGHWAY 99 SOUTH ROAD, MOUNT V
PHONE: (360) 416-4999 FAX: (360) 41
E-MAIL: YSK@SUMMITES.COM

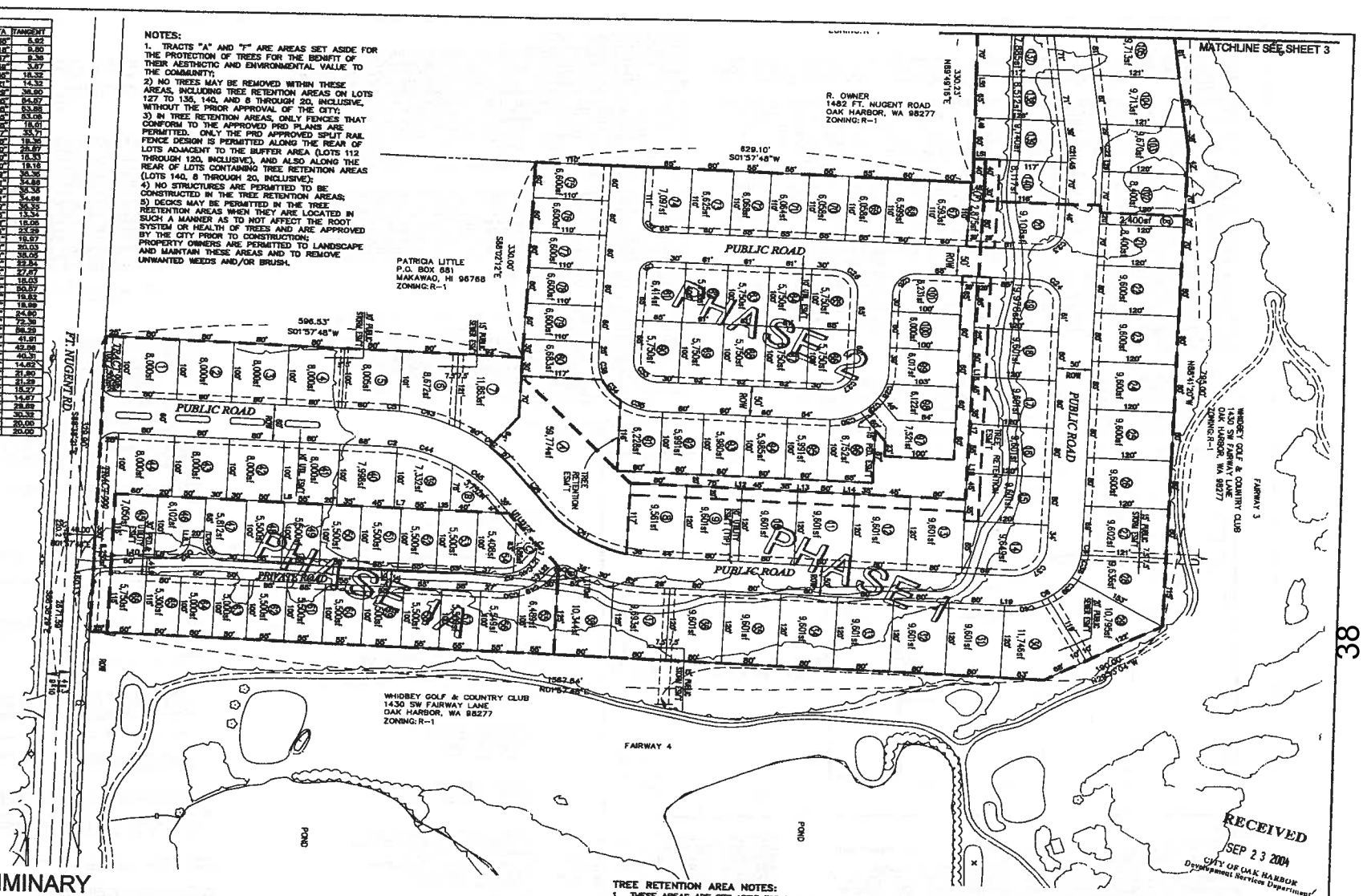
ATTACHMENT 2

CURVE TABLE				
CURVE	LENGTH	RADIUS	DELTA	TANGENT
C2	11.84	200.00	03°23'35"	5.92
C5	19.58	250.00	04°29'15"	9.80
C7	15.51	50.00	21°12'37"	8.36
C8	7.33	150.00	02°47'58"	3.67
C11	36.53	200.00	10°27'56"	18.32
C12	28.58	200.00	08°11'21"	14.32
C13	72.68	200.00	20°49'29"	36.80
C14	104.88	150.00	39°39'06"	54.57
C16	120.78	150.00	46°08'08"	63.88
C16	58.53	25.00	129°33'45"	83.08
C17	28.19	30.00	80°44'06"	16.01
C18	88.79	200.00	18°06'07"	33.71
C19	38.58	200.00	11°03'06"	19.35
C20	68.51	100.00	39°15'30"	35.67
C21	30.88	200.00	08°48'50"	15.53
C22	38.24	250.00	08°45'30"	19.16
C23	68.33	35.00	89°23'48"	38.35
C24	54.63	35.00	89°36'11"	34.88
C25	55.33	35.00	90°33'48"	35.35
C26	54.63	35.00	89°36'11"	34.88
C27	55.32	35.00	90°33'48"	35.35
C28	26.46	85.00	17°50'03"	13.34
C29	30.86	85.00	20°38'18"	15.05
C30	45.44	85.00	30°38'48"	23.29
C31	31.38	20.00	89°54'41"	19.97
C32	31.40	20.00	90°00'18"	20.00
C33	56.03	35.00	90°00'18"	35.05
C34	44.82	85.00	30°04'32"	22.84
C35	53.50	85.00	36°03'49"	27.67
C36	35.53	85.00	23°57'10"	18.03
C37	79.11	50.00	90°36'08"	50.57
C38	36.72	100.00	22°11'51"	18.62
C39	36.48	100.00	22°36'23"	18.59
C40	48.81	100.00	27°58'04"	24.90
C41	139.91	200.00	39°57'37"	72.38
C42	118.44	250.00	26°41'07"	60.29
C43	83.05	250.00	19°02'04"	41.91
C44	83.87	200.00	24°01'30"	42.56
C45	79.55	200.00	22°47'21"	40.30
C46	28.44	50.00	32°35'29"	14.62
C47	38.97	25.00	89°28'00"	24.80
C48	35.37	25.00	80°00'00"	21.99
C49	30.18	80.00	21°36'39"	15.27
C50	29.02	80.00	20°46'56"	14.67
C51	44.81	80.00	32°23'31"	23.09
C52	47.44	30.00	90°36'08"	30.39
C53	31.42	20.00	90°00'00"	20.00
C54	31.42	20.00	90°00'00"	20.00

LINE TABLE		
LINE	LENGTH	BEARING
	10.12	N01°14'29"E
	1.52	N88°41'30"W
L1	30.00	S01°18'40"W
L2	33.97	N34°50'00"W
L4	15.00	N88°38'21"W
L5	28.49	N01°37'48"E
L6	8.00	N01°37'48"E
L7	10.00	N01°37'48"E
L8	4.00	N88°38'21"W
L9	15.00	N88°38'21"W
L10	10.00	N01°37'48"E
L11	80.00	N01°37'48"E
L12	17.00	S02°10'17"W
L13	8.00	N01°37'48"E
L14	15.00	N01°37'48"E
L15	19.00	N01°37'48"E
L16	8.00	N88°41'20"W
L17	15.00	N88°41'20"W
L18	10.00	N88°41'20"W
L19	4.00	N01°37'48"E
L21	7.61	N31°20'18"W
L22	5.73	N01°30'18"W
L23	6.74	S02°10'17"W
L24	78.48	S02°10'17"W
L25	15.00	N01°37'48"E
L29	13.64	N88°41'20"W
L31	11.49	N43°33'15"W
L32	17.28	N43°33'15"W
L33	8.63	N43°33'15"W
L34	11.70	S88°17'49"E
L36	4.53	N88°20'18"W
L37	2.48	N88°20'18"W
L38	6.46	S34°50'00"E
L40	16.76	N88°20'18"W
L43	14.08	N81°10'06"E
L44	8.33	N88°38'21"W
L45	1.53	N88°41'30"W
L48	4.10	N01°37'48"E
L49	10.23	S88°49'16"W
L50	6.11	S88°49'16"W
L51	15.00	N01°18'40"E

NOTES:

1. TRACTS "A" AND "F" ARE AREAS SET ASIDE FOR THE PROTECTION OF TREES FOR THE BENIFIT OF THEIR AESTHICTIC AND ENVIRONMENTAL VALUE TO THE COMMUNITY;
2) NO TREES MAY BE REMOVED WITHIN THESE AREAS, INCLUDING TREE RETENTION AREAS ON LOTS 127 TO 135, 140, AND 8 THROUGH 20, INCLUSIVE, WITHOUT THE PRIOR APPROVAL OF THE CITY;
3) IN TREE RETENTION AREAS, ONLY FENCES THAT CONFORM TO THE APPROVED PRD PLANS ARE PERMITTED. ONLY THE PRD APPROVED SPLIT RAIL FENCE DESIGN IS PERMITTED ALONG THE REAR OF LOTS ADJACENT TO THE BUFFER AREA (LOTS 112 THROUGH 120, INCLUSIVE), AND ALSO ALONG THE REAR OF LOTS CONTAINING TREE RETENTION AREAS (LOTS 140, 8 THROUGH 20, INCLUSIVE);
4) NO STRUCTURES ARE PERMITTED TO BE CONSTRUCTED IN THE TREE RETENTION AREAS;
5) DECKS MAY BE PERMITTED IN THE TREE REETENTION AREAS WHEN THEY ARE LOCATED IN SUCH A MANNER AS TO NOT AFFECT THE ROOT SYSTEM OR HEALTH OF TREES AND ARE APPROVED BY THE CITY PRIOR TO CONSTRUCTION;
PROPERTY OWNERS ARE PERMITTED TO LANDSCAPE AND MAINTAIN THESE AREAS AND TO REMOVE UNWANTED WEEDS AND/OR BRUSH.



PRELIMINARY
PLAT OF FAIRWAY POINT P.R.D.

SECTION 4, TOWNSHIP 32 N., RANGE 1 E., W.M.
OAK HARBOR, WASHINGTON

02062

SUMMIT ENGINEERS & SURVEYORS, INC.
2218 OLD HIGHWAY 99 SOUTH ROAD, MOUNT VERNON, WA. 98273
PHONE: (360) 416-4999 FAX: (360) 416-4949
E-MAIL: YSK@SUMMITES.COM

SUMMIT

YOUNG-SOO KIM
STATE OF WASHINGTON
REGISTERED PROFESSIONAL LAND SURVEYOR
3/24/2006

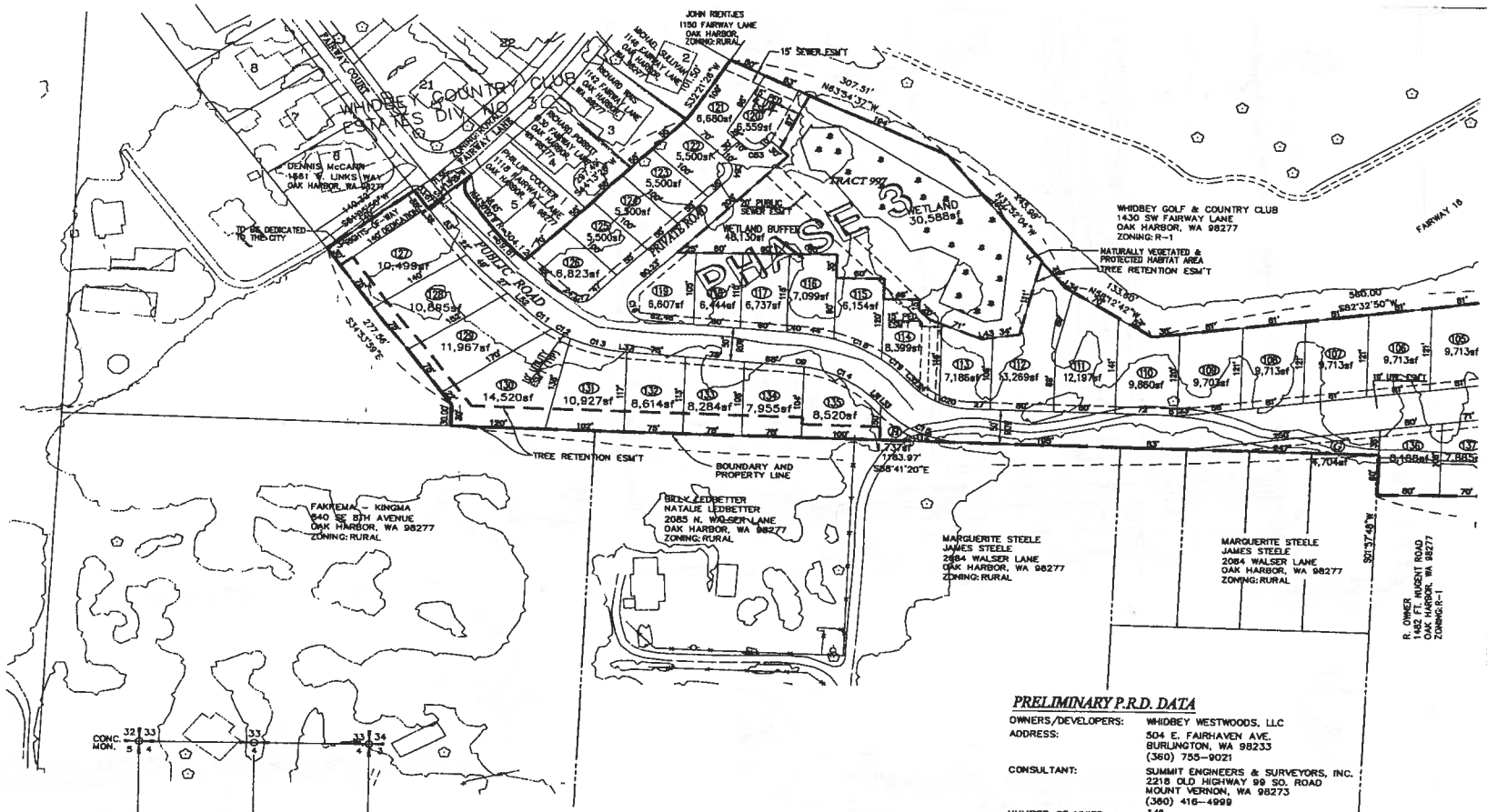
100 0 50 100
SCALE: 1" = 100'

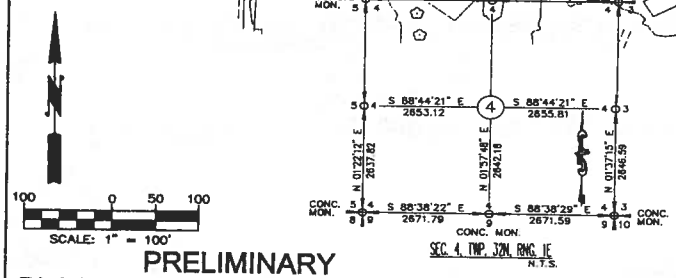
TREE RETENTION AREA NOTES:

1. THESE AREAS ARE SET ASIDE FOR THE PROTECTION OF TREES FOR THE BENEFIT OF THEIR AESTHETIC AND ENVIRONMENTAL VALUE TO THE COMMUNITY;
2) NO TREES MAY BE REMOVED WITHIN THESE AREAS, INCLUDING TREE RETENTION AREAS ON LOTS 127 TO 135, 140, AND 8 THROUGH 20, INCLUSIVE, WITHOUT THE PRIOR APPROVAL OF THE CITY;
3) IN TREE RETENTION AREAS, ONLY FENCES THAT CONFORM TO THE APPROVED PRD PLANS ARE PERMITTED. ONLY THE PRD APPROVED SPLIT RAIL FENCE DESIGN IS PERMITTED ALONG THE REAR OF LOTS ADJACENT TO THE BUFFER AREA (LOTS 112 THROUGH 120, INCLUSIVE), AND ALSO ALONG THE REAR OF LOTS CONTAINING TREE RETENTION AREAS (LOTS 140, 8 THROUGH 20, INCLUSIVE);
4) NO STRUCTURES ARE PERMITTED TO BE CONSTRUCTED IN THE TREE RETENTION AREAS;
5) DECKS MAY BE PERMITTED IN THE TREE RETENTION AREAS WHEN THEY ARE LOCATED IN SUCH A MANNER AS TO NOT AFFECT THE ROOT SYSTEM OR HEALTH OF TREES AND ARE APPROVED BY THE CITY PRIOR TO CONSTRUCTION;
PROPERTY OWNERS ARE PERMITTED TO LANDSCAPE AND MAINTAIN THESE AREAS AND TO REMOVE UNWANTED WEEDS AND/OR BRUSH;
6) NO GRADING OR OTHER IMPROVEMENTS ARE TO BE MADE, OR BUILDING PERMITS ISSUED, ON LOTS 120 AND 121 PRIOR TO THE RELOCATION OF THE EXISTING OFF-SITE PRIVATE SEWER FACILITY LOCATED ON SAID LOTS. THE RELOCATION OF THE OFF-SITE PRIVATE SEWER FACILITY LOCATED ON SAID LOTS. THE LOTS MUST BE IN ACCORDANCE WITH ALL APPROPRIATE CITY, AND COUNTY STANDARDS AND THE SEPA MDNS ASSOCIATED WITH THIS PLAT.

SHEET 2 OF 7

ATTACHMENT 2





SCALE: 1" = 100'

PRELIMINARY PLAT OF FAIRWAY POINT P.R.D.

SECTION 4, TOWNSHIP 32 N., RANGE 1 E., W.M.
OAK HARBOR, WASHINGTON

02062

SUMMIT ENGINEERS & SURVEYORS, INC.
2218 OLD HIGHWAY 99 SOUTH ROAD, MOUNT VERNON, WA. 98273
PHONE: (360) 416-4999 FAX: (360) 416-4949
E-MAIL: YSK@SUMMITES.COM

NOTES:

1. ALL LANDSCAPED AREAS IN THE PUBLIC RIGHT-OF-WAY SHALL BE MAINTAINED BY THE DEVELOPER AND/OR SUCCESSOR(S) AND MAY BE REDUCED OR ELIMINATED IF DEEMED DETRIMENTAL TO CITY ROAD PURPOSES.
2. THE EXISTING OFF-SITE PRIVATE SEWER FACILITY LOCATED ON THE PROPOSED LOTS 120 AND 121 SHALL BE RELOCATED PER THE STATE HEALTH DEPARTMENT STANDARDS PRIOR TO THE ISSUANCE OF BUILDING PERMITS FOR THE SAID LOTS.
3. DEVEOPMENT OF THE SOUTH 60 FEET OF LOTS 136, 137, 138, 139, AND 140 IS SUBJECT TO THE CONDITIONS OUTLINED AS PER AUDITOR FILE NO. 4022783.

BASIS OF BEARING

SOUTHLINE OF SW 1/4 OF SECTION 4, TOWNSHIP 32N., RANGE 1E., BEARING N 88° 38' 22" W.

SURVEY EQUIPMENT & PROCEDURE

THIS SURVEY WAS COMPLETED AND ACCOMPLISHED BY FIELD TRAVERSE USING A TOPCON GTS-3C TOTAL STATION ON 03-04.

PRELIMINARY P.R.D. DATA

OWNERS/DEVELOPERS:	WHIDBEY WESTWOODS, LLC
ADDRESS:	504 E. FAIRHAVEN AVE. BURLINGTON, WA 98233 (360) 755-9021
CONSULTANT:	SUMMIT ENGINEERS & SURVEYORS, INC. 2218 OLD HIGHWAY 99 SO. ROAD MOUNT VERNON, WA 98273 (360) 416-4999
NUMBER OF UNITS:	*140*
ZONING:	R-1
COMPREHENSIVE PLAN:	LOW DENSITY, RESIDENTIAL
WATER SOURCE:	CITY OF OAK HARBOR
SEWAGE DISPOSAL:	CITY OF OAK HARBOR

RECEIVED
SEP 23 2004
CITY OF OAK HARBOR
Development Services Department

LEGEND

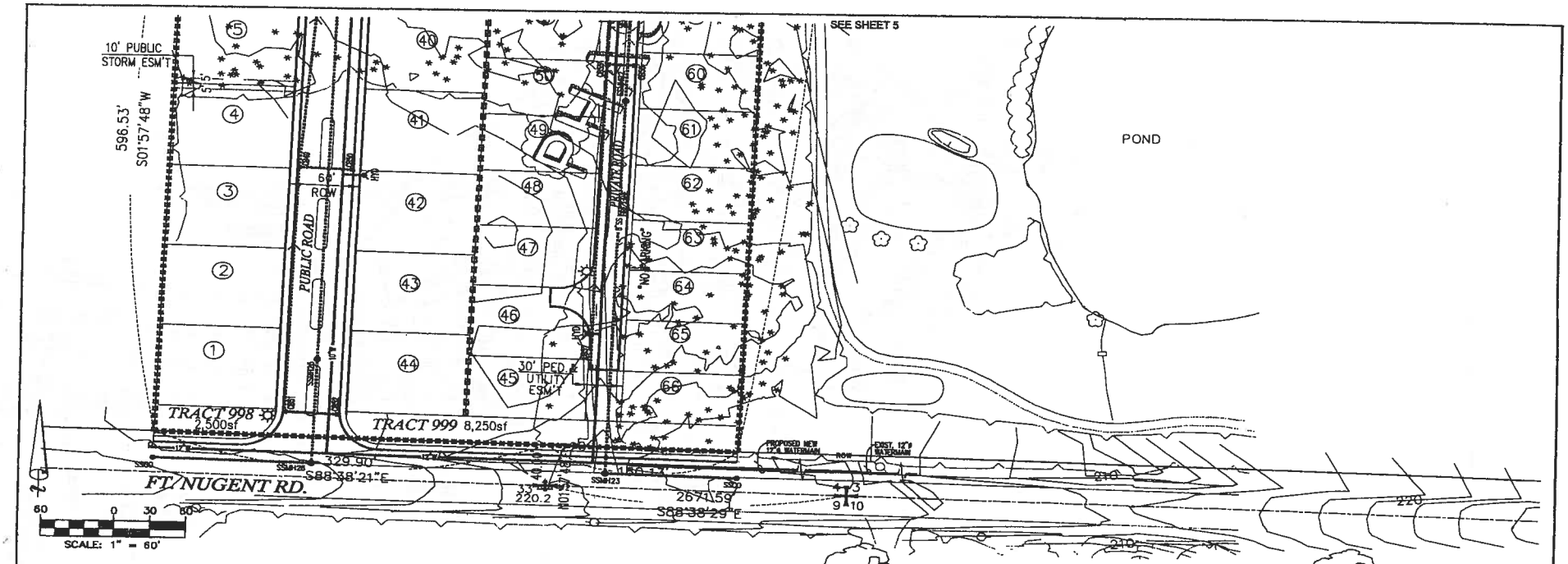
- ◉ INDICATES STANDARD CITY OF OAK HARBOR MON. IN CASE SET. (SUMMIT 32169)
- • INDICATES 1/2" REBAR & CAP FOUND, (SUMMIT 32169)
- Ⓐ OPEN SPACE TRACT A
- TRACT 997 OPEN SPACE TRACT 997

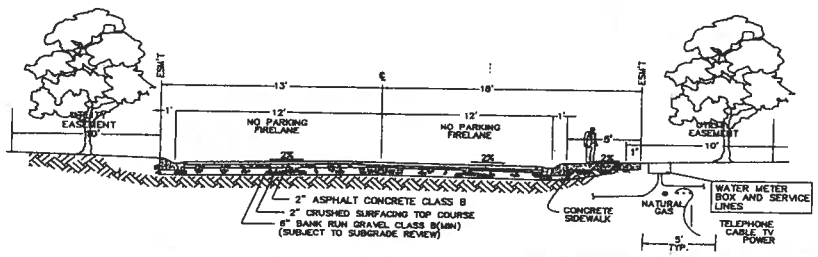
ALL LOT & TRACT CORNERS ESTABLISHED WITH A 1/2" DIA. BY 30" LONG REBAR WITH CAP, "SUMMIT 32169".

BSBL-BUILDING SETBACK LINE

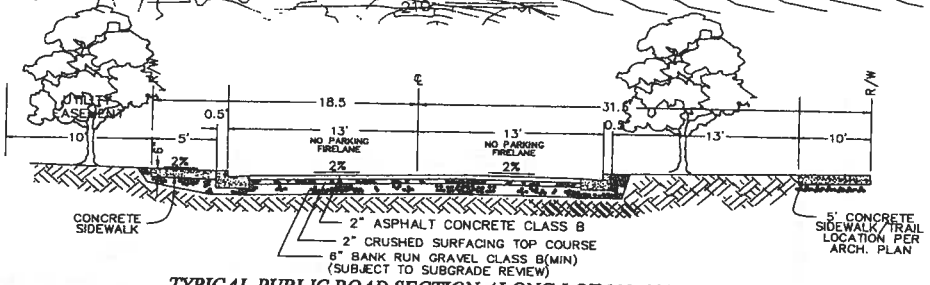
SHEET 3 OF 7

ATTACHMENT 2

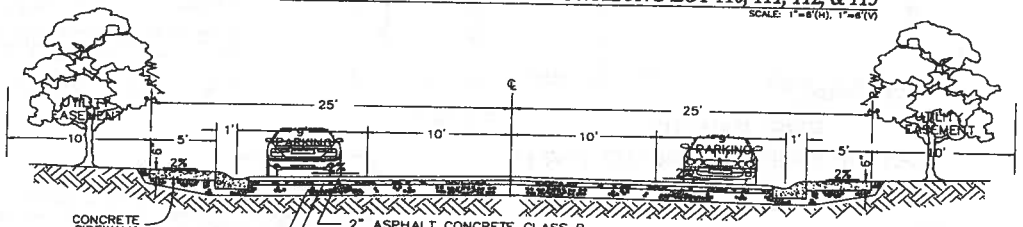




TYPICAL PRIVATE ROAD SECTION
(PRIVATE R.O.W.)
SCALE: 1"=8'(H), 1"=8'(V)



TYPICAL PUBLIC ROAD SECTION ALONG LOT 110, 111, 112, & 113
SCALE: 1"=8'(H), 1"=8'(V)



TYPICAL PUBLIC ROAD SECTION
SCALE: 1"=8'(H), 1"=8'(V)

PRELIMINARY
PLAT OF FAIRWAY POINT P.R.D.

SECTION 4, TOWNSHIP 32 N., RANGE 1 E., W.M.
OAK HARBOR, WASHINGTON

02062

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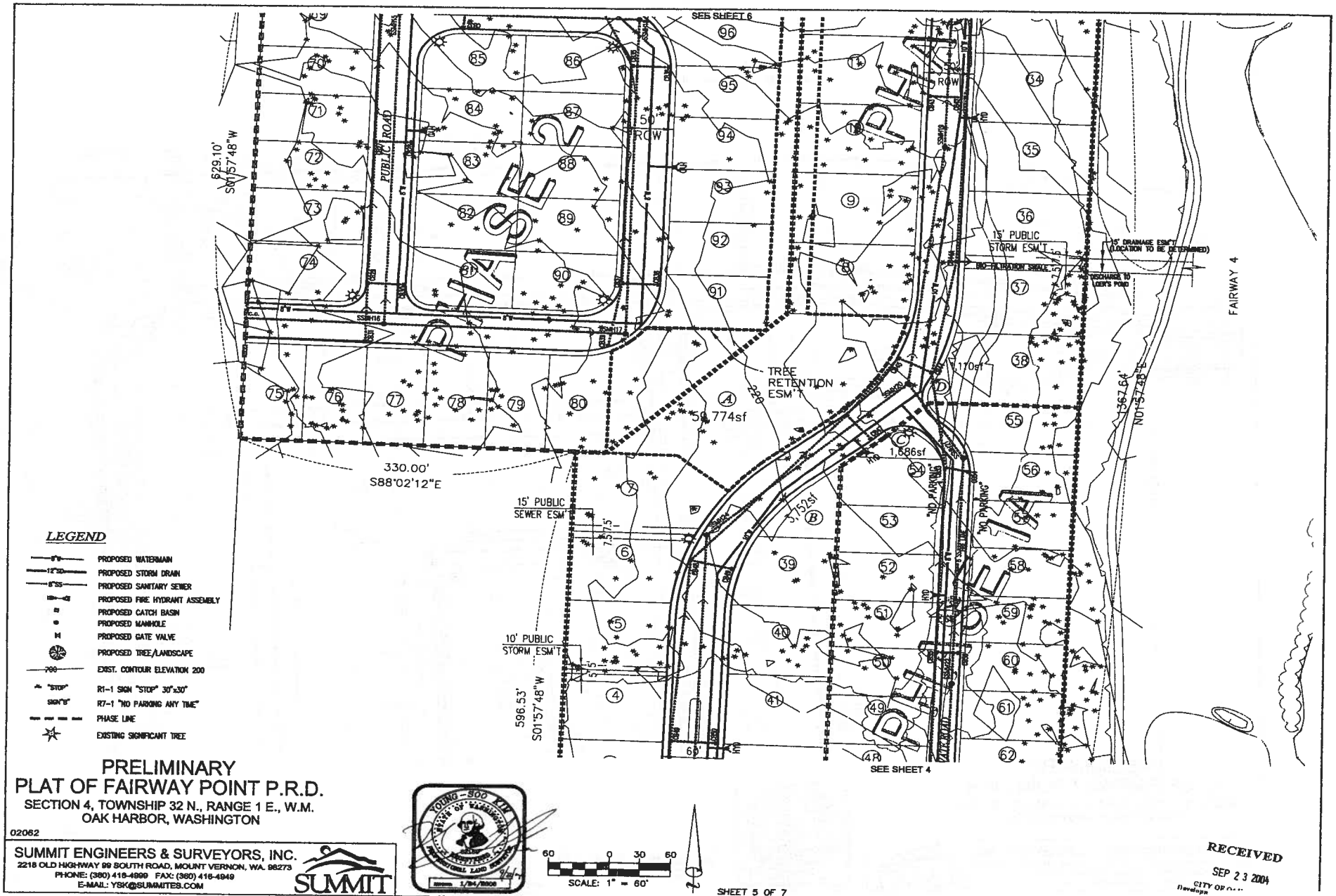
SUMMIT

YOUNG - SOO KIM
STATE OF WASHINGTON
PROFESSIONAL LAND SURVEYOR
3/24/2006

RECEIVED
SEP 23 2004
CITY OF OAK HARBOR
Development

SHEET 4 OF 7

ATTACHMENT 2



PRELIMINARY
PLAT OF FAIRWAY POINT P.R.D.

SECTION 4, TOWNSHIP 32 N., RANGE 1 E., W.M.
OAK HARBOR, WASHINGTON

02062

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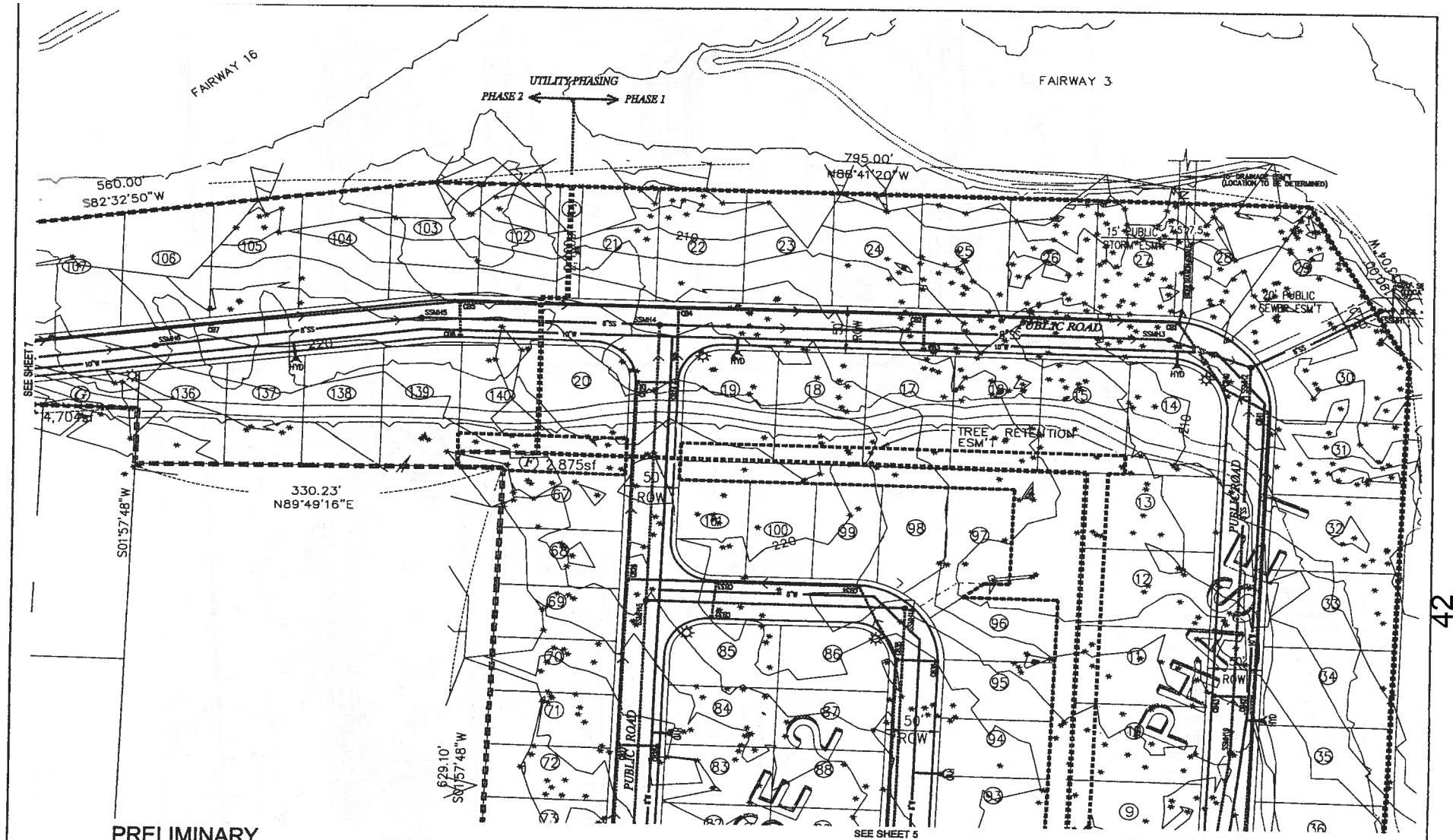
SEP 23 2004
CITY OF OAK HARBOR
Development

ATTACHMENT 2



PRELIMINARY
PLAT OF FAIRWAY POINT P.R.D.

SECTION 4, TOWNSHIP 32 N., RANGE 1 E., W.M.
OAK HARBOR, WASHINGTON

02062

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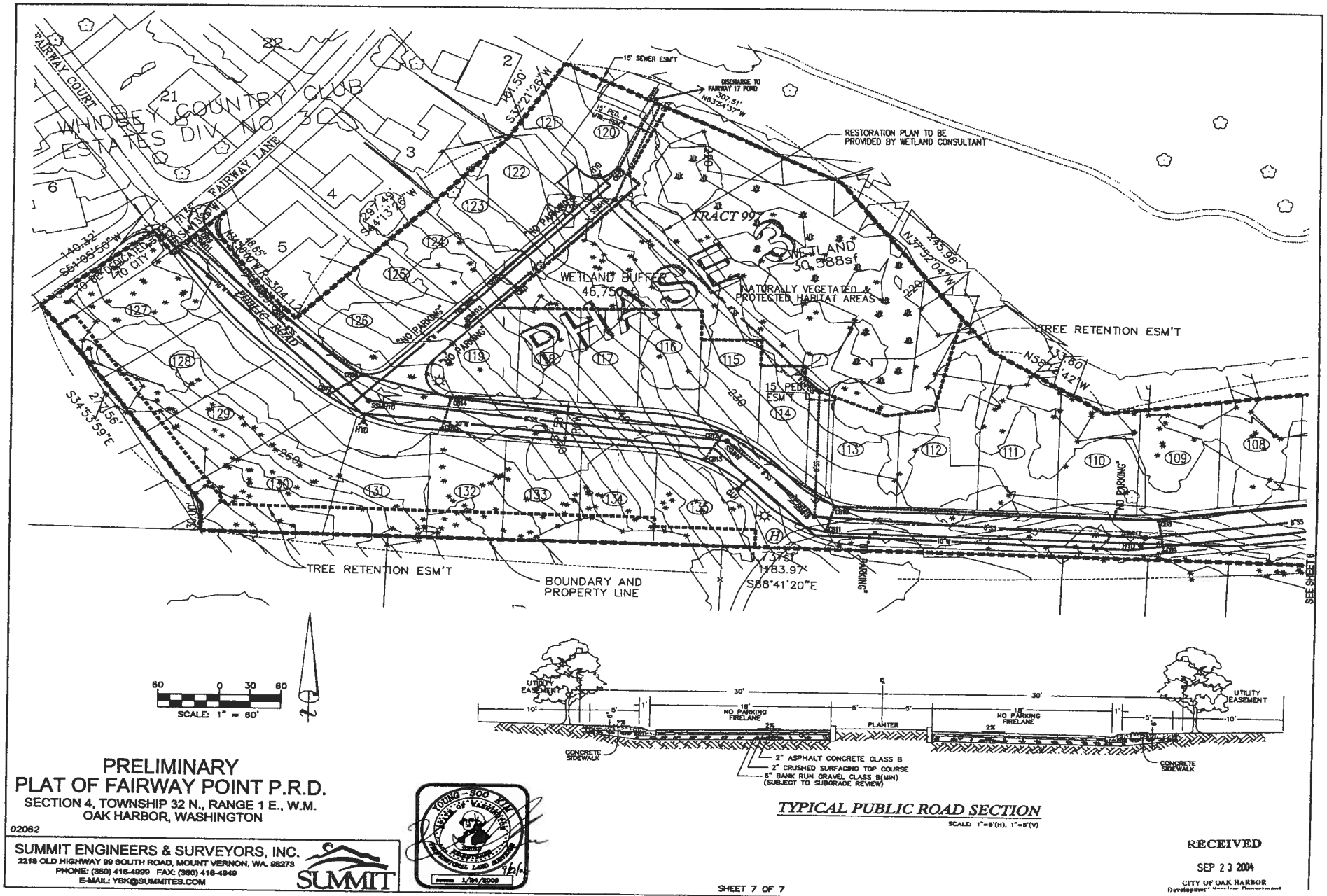
2218 OLD HIGHWAY 99 SOUTH ROAD, MOUNT VERNON, WA. 98273
PHONE: (360) 416-4999 FAX: (360) 416-4949
E-MAIL: YSK@SUMMITES.COM

SCALE: 1" = 60'

SHEET 6 OF 7

RECEIVED
SEP 23 2009
CITY OF OAK HARBOR
Development Services Department

ATTACHMENT 2



PRELIMINARY
PLAT OF FAIRWAY POINT P.R.D.

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02062

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SUMMIT

YOUNG-SOO KIM
STATE OF WASHINGTON
REGISTERED PROFESSIONAL LAND SURVEYOR
1/24/2003

SHEET 7 OF 7

ATTACHMENT 2

CITY OF
Oak Harbor
WHIDBEY ISLAND, WASHINGTON

September 13, 2011

Mr. Ryan Kingma
Mr. Robert Fakkema
2499 Pete's Lane
Oak Harbor, WA 98277

RE: Fairway Point PRD Phase 3 Preliminary Plat Approval

Dear Mr. Kingma & Mr. Fakkema,

Staff would like to send you this reminder as you approach the expiration date of October 19, 2011, for the preliminary plat of Phase 3 of Fairway Point PRD.

The Oak Harbor Municipal Code allows for City Council to issue a time extension up to a maximum of one year if you are unable to submit the Final Plat for Fairway Point Phase 3 before the expiration date of October 19, 2011 (OHMC 21.40.020) Said extension shall be conditioned upon:

(a) The plat meeting all subdivision requirements which are in effect at the time the extension is granted; and

(b) Upon a showing that the applicant has attempted in good faith to submit the final plat within the five-year period.

If you are interested in extending the expiration date, please send a letter requesting such to the Development Services Department. Upon receipt of a letter we will process your request and contact you when a City Council date has been determined.

Should you have any questions regarding this letter please feel free to contact me at msartorius@oakharbor.org or at (360) 279-4521.

Sincerely,

Melissa Sartorius
Development Services, Associate Planner
City of Oak Harbor

Cc: Mr. Brian Gentry, Landed Gentry Development Inc.
File

Mr. Ryan Kingma
Mr. Robert Fakkema
2499 Pete's Lane
Oak Harbor, WA 98277

September 22, 2011

Melissa Sartorius
City of Oak Harbor
Development Services, Associate Planner
865 SE Barrington Drive
Oak Harbor, WA 98277-4092

email:

RECEIVED
SEP 23 2011
CITY OF OAK HARBOR
Development Services Department

RE: Fairway Point PRD, Phase 3, Preliminary Plat Approval

Ms Sartorius,

Thank you for your letter of September 13, 2011, informing us of the up coming expiration date on the subject plat Phase 3.

Please accept this letter as our communication informing you that we would like your department to process the referenced one year extension available in your municipal code before the City Council.

The good faith efforts attempted on this project include: the building of both Phase 1 and Phase 2 of the PRD and the plat construction documents are complete for Phase 3. The economic conditions of the last few years has caused a slow down in the home building environment and more time is needed absorb more lots and to finish Phase 3.

We reacquired this property from the previous applicant/owners in a negotiated foreclosure action. While at this time we are uncertain as to how we may choose to develop or dispose of the property we want to keep all of our options open. One of the options we wish to reserve is the unilateral right to terminate the Phase 3 Preliminary Plat/PRD prior to October 19, 2012, should the council grant the extension and should we choose an alternate development plan prior to that date.

Thank you for your attention to this matter.

Ryan Kingma or Robert Fakkema

ATTACHMENT 3

RESOLUTION NO. _____

A RESOLUTION APPROVING A ONE-YEAR EXTENSION OF THE TIME FOR FILING AN APPLICATION FOR A FINAL PLAT UPON THE PRELIMINARY PLAT OF FAIRWAY POINT DIVISION 3.

WHEREAS, a public hearing was held by the Planning Commission on September 28, 2004, and said hearing was published on September 11, 2004 in the Whidbey News Times; and

WHEREAS, the City Council adopted the Findings of Fact, Conclusions of Law and Record of Decision of the Planning Commission by reference (subject to certain conditions) and approved the Preliminary Plat of Fairway Point on October 19, 2004; and

WHEREAS, the City Council finds that the applicant (Ryan Kingma and Robert Fakkema) have attempted in good faith to submit the final plat application within the seven-year period provided in RCW 58.17.140 and OHMC 21.40.020(1);

NOW, THEREFORE BE IT RESOLVED by the City Council of the City of Oak Harbor as follows:

1. A one-year extension of the preliminary plat of Fairway Point Division 3 consisting of 39 single-family residential lots (Island County Parcel Number S6612-00-0000C-0) under City file number PPL 04-00004, is hereby approved subject to the conditions contained in the City Council Resolution #05-08 (attached as Exhibit 1) before the final plat may be filed.

PASSED and approved by the City Council this 18th day of October, 2011.

THE CITY OF OAK HARBOR

_____
Jim Slowik
Mayor

Attest:

_____
City Clerk

Approved as to form:

_____

Margery Hite
City Attorney

RESOLUTION NO. 05-08

A resolution approving the preliminary plat of Fairway Point and authorizing filing thereof subject to conditions imposed.

WHEREAS, a public hearing was held by the Planning Commission on September 28, 2004, on the below described plat and the City Council having approved the same and adopted the Findings of the Planning Commission by reference (and providing that approval is subject to certain conditions);

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Oak Harbor, Washington:

Section 1:

General

The preliminary plat of Fairway Point consisting of a 140 lot Planned Residential Development (PRD) located at west of Whidbey Island Golf and Country Club, on the north side of 1Ft. Nugent Road., under City file number PPL 04-00004, a copy of the map which is hereto attached and by reference made a part hereof, is hereby approved subject to the following conditions being met, or satisfactory assurances are provided to meet the requirements, before the final plat may be filed:

1. Development of the Fairway Point PRD shall be in general conformance with the following submitted plans:
    a. Preliminary PRD Drawing Set – 5 sheets, Submitted September 23, 2004
    b. Preliminary Plat Drawing Set – 7 sheets, Submitted September 23, 2004
    c. Wetland Buffer Mitigation Drawing Set – 2 sheets, Submitted September 23, 2004

2. Typical lot landscaping, including street trees, as indicated on the PRD drawings must be installed on each lot at the time they are developed prior to final occupancy being granted.

Impact and Mitigation

3. The developer shall be required to pay the community park impact fee prior to the issuance of any building permit. The community park impact fee shall be $472.00 for each residential lot.
4. The developer shall be required to pay the neighborhood park impact fee of $197.00 for each residential lot prior to the issuance of any building permit.
5. The developer shall be required to pay transportation impact fees of $907.00 per residential unit for each of the 140 new residences proposed prior to the issuance of any building permit.
6. The developer shall be required to successfully pass the Traffic Concurrency Test for the proposed plat prior to Final Plat approval.

7. All improvements deemed necessary as part of the final traffic analysis and Traffic Concurrency Test must be complete and accepted prior to Final Plat approval.
8. All mitigation measures identified in the wetland buffer area restoration plan must be complete and accepted prior to Final Plat approval.
9. The Application for relief of the Notice of Moratorium on Non-Forestry Use of Land must be approved prior to Final Plat approval.

Engineering

10. Following approval of the Preliminary Plat, construction plans must be submitted to and approved by the Engineering Department prior to commencing any construction activities. These plans must include all street and frontage improvements (including sidewalk, curb, gutter, paving, traffic control, storm drainage, and street illumination) and all existing and proposed utilities including, but not limited to water, sewer, storm drainage (including a site drainage analysis), power, telephone, cable, and gas. All proposed improvements must meet the City of Oak Harbor standards for materials and installation practices. (OHMC 21.40.010).
11. The Applicant shall provide proof of any and all recorded easements necessary to complete the proposed development and associated utility extensions prior to approval of construction plans and/or Final Plat.
12. All proposed on and off site improvements associated with this project must be completed and accepted prior to final plat approval. This includes the half street improvements along Ft. Nugent Ave required as part of the annexation agreement. A Performance Bond, in the amount of 112% of the cost to construct required, uninstalled, improvements may be posted in lieu of installation of the improvements, provided, such a bond is approved by the City Engineer. (OHMC 21.30.010)
13. As per the Annexation agreement, the proposal is subject to and must comply with the Golf Course Drainage Basin Stormwater Mitigation Study. Easements, where applicable, must be provided by the Owner for existing drainage facilities. Owner will be responsible for all required on-site costs of storm water drainage and retention facilities or will provide for alternative off-site drainage per the Golf Course Drainage Basin Stormwater Mitigation Study.
14. The intersection required for access to the plat located at Fairway Drive shall be engineered to correct the unusual street configuration at this location while creating a traffic barrier such as a barrier curb designed per WSDOT standards and approved by the City engineer for installation at the curb section adjacent to the existing lot 5 of Whidbey Country Club Estates and in front of the proposed lots 127 and 128 of Fairway Point. A regular intersection/entrance for the subdivision and shall be constructed to City standards prior to Final Plat approval.

Fire

15. As per the Annexation agreement, for each residential unit, or equivalent hereof, developed on the Property, the Owner of the Property shall pay Two Hundred Dollars ($200.00) for development of a fire protection station in the area.

16. Plans and specifications for fire hydrant system shall be submitted to the fire department for review and approval prior to construction as per UFC 901.2.2.2.
17. Fire apparatus access roads shall be provided and maintained in accordance with locally adopted street, road, and access standards. UFC 902.1 WA Amendments.
18. That staff will work with the Developer and affected property owners to facilitate a landscape buffer at a dimension of no less than 10 feet at the common property line between lots 2, 3, 4, and 5 of Whidbey Country Club Estates and lots 126, 125, 124, 123, 122, and 121 of Fairway Point, and in the alternative, the property owners and the developer, through the planning staff, mat mutually develop a buffer, i.e. a fence or landscape buffer on existing private properties of Whidbey Country Club Estates lots 2, 3, 4, and 5.

PASSED by the City Council and approved by its Mayor this _____ day of _____, 2004.

THE CITY OF OAK HARBOR

_____
Mayor

Attest:

_____
City Clerk

Approved as to Form:

_____
City Attorney

City of Oak Harbor
City Council Agenda Bill

Bill No. _____
Date: October 18, 2011
Subject: **Economic Development Proposal**

FROM: Paul Schmidt, City Administrator

INITIALED AS APPROVED FOR SUBMITTAL TO THE COUNCIL BY:

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

PURPOSE

The purpose of this agenda bill is to seek approval of City Council to authorize the Mayor to engage in specific economic development potential for the Seaplane Base.

AUTHORITY

RCW 35.21.703 states, "It shall be in the public purpose for all cities to engage in economic development programs. In addition, cities may contract with nonprofit corporations in furtherance of this and other acts relating to economic development." [1985 c 92 § 1.]

FISCAL IMPACT DESCRIPTION

Funds Required: $40,000

Appropriation Source: General Fund #001 Ending Fund Balance

SUMMARY STATEMENT

At the regular City Council meeting on September 20, 2011, City Council directed Staff to come back on October 18, 2011 with a proposal to undertake a feasibility study to assist in bringing a private shipyard enterprise on the Seaplane Base with the potential of adding 100 jobs to our local economy.

City Staff agrees there is considerable merit to pursuing the potential of facilitating economic development possibilities on the federally owned Seaplane Base. The Mayor and City Staff have been involved in consultation with Navy personnel and the private sector enterprise interested in the economic development potential of private investment on the Seaplane Base for the past couple of months. The infusion of further City resources as proposed with this agenda bill will certainly assist in the effort.

At this time in the process, City Staff would recommend that threshold considerations be addressed initially as opposed to an immediate commissioning of a feasibility study. This would involve further review of the extent of the environmental study required, legal assistance on Federal lease options and further inquiry into the potential of external funding partners.

Subsequently, this agenda bill proposes to provide authorization to the Mayor up to $40,000 of General Fund ending fund balance, to provide further assistance as required to pursue economic development possibilities on the Seaplane Base.

STANDING COMMITTEE REPORT

This draft Economic Development Proposal was presented to the Governmental Services Committee on October 11, 2011 and to the Finance Committee on October 12, 2011.

RECOMMENDED ACTION

Approve Resolution 11-15.

ATTACHMENTS

1. Resolution 11-15.
2. Pages 10 and 11, CERB Feasibility/Planning Application.

RESOLUTION NO. 11-15

A RESOLUTION BY THE CITY COUNCIL OF OAK HARBOR AUTHORIZING THE MAYOR TO PURSUE ECONOMIC DEVELOPMENT OPPORTUNITIES ON THE SEAPLANE BASE BY DESIGNATING UP TO $40,000 FROM THE GENERAL FUND ENDING FUND BALANCE FOR PURPOSES OF ENVIRONMENTAL REVIEW, GRANT FUNDING PREPARATION AND LEGAL COSTS

WHEREAS, the City Council is desirous in assisting economic development efforts to increase job opportunities in Oak Harbor to the extent reasonably possible; and

WHEREAS, RCW 35.21.703 states, "It shall be in the public purpose for all cities to engage in economic development programs. In addition, cities may contract with nonprofit corporations in furtherance of this and other acts relating to economic development." [1985 c 92 § 1.]

WHEREAS, the City of Oak Harbor has been approached about the possibility of facilitating private sector investment on the property known as the Seaplane Base; and

WHEREAS, there are many complicating environmental and legal factors involved with locating private business ventures on government property; and

WHEREAS, the Mayor and City Staff have been engaged in discussions with the Navy, Island County EDC, Washington State Department of Commerce and private sector business companies to preliminarily identify those particular issues involved with the private sector investment on the Seaplane Base; and

WHEREAS, in part due to those discussions, the City Council on September 20, 2011 asked Staff to bring back a proposal to further facilitate economic development efforts on the Seaplane Base; and

WHEREAS, in order to continue to move forward with a more defined and timely effort to facilitate economic development endeavors on the Seaplane base, more resources will need to be invested in the review process; and

WHEREAS, the cost amount of $40,000 could be used by City Staff to undertake preliminary review of environmental needs, grant funding possibilities and legal costs to immediately facilitate the review process; and

WHEREAS, City Staff has identified the use of General Fund Ending Fund Balance as the source for the City Council to designate the $40,000 for economic development review; and

NOW THEREFORE BE IT RESOLVED, by the City Council of the City of Oak Harbor, Washington, that the Mayor be authorized to continue to pursue economic development opportunities in the area generally known as the Seaplane Base and to expend up to $40,000 from the General Fund for purposes of environmental review, grant funding preparation and to cover any associated legal costs.

PASSED by the City Council of the City of Oak Harbor and approved by its Mayor this 18th Day of October, 2011.

CITY OF OAK HARBOR

_____

MAYOR

ATTEST:

_____

City Clerk

Approved as to Form:

_____

City Attorney

Attachment E

Attachment 2

Feasibility Study Minimum Requirements

The economic feasibility study must contain the following **minimum requirements**:

a. A product market analysis linked to economic development.

b. A market strategy containing action elements linked to timelines.

c. Identification of targeted industries.

d. Identification of the group responsible for implementing the marketing strategy. Describe the group's capacity to complete the responsibility.

e. The site's appropriateness by addressing, at minimum, appropriate zoning, affect to the state or local transportation system, environmental restrictions, cultural artifact investigation, and the site's overall adequacy to support the anticipated development upon project completion.

f. A location analysis of other adequately served vacant industrial land.

g. Total funding for the public facilities improvements is secured or will be secured within a given time frame.

h. An analysis of how the project will assist local economic diversification efforts.

i. Indicate the specific issues that will be addressed.

j. List one or more economic outcomes that you expect from the proposed CERB project.

k. Describe the specific, quantifiable measures of the outcome(s) that will indicate success. Describe in measurable terms what you expect to be able to show as progress toward the outcome for each year before the whole outcome has been achieved.

l. Describe what data you will collect to determine whether the outcome is being achieved.

m. Describe the data collection procedure including when data will be collected, from whom and by whom.

n. The estimated median hourly wage of the jobs created when development occurs.

o. If the project is determined to be feasible, the following information must be provided within the final report:

1. Total estimated jobs created (in FTEs).
2. Describe benefits offered to employees.
3. Describe the median hourly wage of the new jobs in relation to the median hourly county wage.
4. The county three-year unemployment rate in relation to the state rate.
5. County population change in the last five years.
6. The estimated jobs created represent what percentage of the county's labor force.

7. The estimated jobs created represent what percentage of the county's unemployed workers.

8. Estimated new annual state and local revenue generated by the private business.

9. Estimated private investment generated by project.

By submitting this application, the applicant acknowledges these minimum requirements and agrees to include these points in the final study, as described in this application.