



Project No. 2024105328, SEPA Folder No. XA 24-116030  
Appeal Sequence No. \_\_\_\_\_

## APPEAL OF AN ADMINISTRATIVE DECISION

Black Hills Audubon Society,

Ronda Larson Kramer & Jonathan Kramer, Gordon White

TO THE THURSTON COUNTY HEARING EXAMINER COMES NOW

on this 30th day of January 2025, as an APPELLANT in the matter of an administrative decision rendered on December 26 2024 by Community Planning & Economic Development Department, relating to SEPA Determination of Nonsignificance as to proposed amendments to the County-Wide Planning Policies involving Urban Growth Area (UGA) land swaps.

THE APPELLANT, after review and consideration of the reasons given by the administrative official for his/her decision, does now, give written notice of APPEAL to the Hearing Examiner of said decision under the provision(s) of the ordinances marked below.

- |  |   |
|--|---|
| <input checked="" type="checkbox"/> 17.09.160 SEPA                     | <input type="checkbox"/> 18.10.070 PLATTING & SUBDIVISION           |
| <input type="checkbox"/> 17.15.410 AG ACTIVITIES, CRITICAL AREAS       | <input type="checkbox"/> 19.12.010 SHORELINE PROGRAM                |
| <input type="checkbox"/> 20.60.060 ZONING                              | <input type="checkbox"/> 21.81.070 LACEY UGA ZONING                 |
| <input type="checkbox"/> 22.62.050 TUMWATER UGA ZONING                 | <input type="checkbox"/> 23.72.190 OLYMPIA UGA ZONING               |
| <input type="checkbox"/> 24.05.050 CRITICAL AREAS                      | <input type="checkbox"/> 14.22.501 ABATEMENT OF DANGEROUS BUILDINGS |
| <input type="checkbox"/> 15.05 THURSTON COUNTY<br>STORMWATER STANDARDS | <input type="checkbox"/> NOTICE OF VIOLATION                        |
|  | <input type="checkbox"/> NOTICE OF CIVIL PENALTIES                  |

**STATE THE BASIS OF THE APPEAL AS OUTLINED IN SECTION "A" ON REVERSE SIDE OF THIS FORM.**

*(If more space is required, please attach additional sheet.)*

AND REQUESTS that the Hearing Examiner, having responsibility for review of such decisions will upon review of the record of the matters and the allegations contained in this appeal, find in favor of the appellant and reverse the administrative decision.

Ronda Larson Kramer

APPELLANT NAME PRINTED

Ronda Larson Kramer

SIGNATURE OF APPELLANT

Address 1814 Eastside St SE, Olympia WA 98501

Phone: 360-259-3076

Email: ronda@larsonlawpllc.com

**Please do not write below - for Staff Use Only:**

Filed with Community Planning & Economic Development this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_,  
by \_\_\_\_\_, Filing fee of \$2,220.00\*, receipt no. \_\_\_\_\_ by \_\_\_\_\_.

\*The filing fee will cover staff time (for Planning, Environmental Health & Development Review), and Hearing Examiner time to hear the appeal and issue a decision. Additional fees will be billed if warranted.

**THURSTON COUNTY**  
**PROCEDURE FOR APPEAL OF ADMINISTRATIVE DECISION TO HEARING EXAMINER**

**NOTE:** THERE MAY BE NO EX PARTE ( ONE-SIDED ) CONTACT OUTSIDE A PUBLIC HEARING WITH EITHER THE HEARING EXAMINER OR WITH THE BOARD OF THURSTON COUNTY COMMISSIONERS ON APPEALS ( Thurston County Code, Section 2.06.030 ).

**The following is a description of the rules of procedure for appeals before the Hearing Examiner.**

**A. A FILED APPEAL MUST BE IN WRITING AND CONTAIN THE FOLLOWING**

1. A brief statement as to how the appellant is significantly affected by or interested in the matter appealed;
2. A brief statement of the appellant's issues on appeal, noting appellant's specific exceptions and objections to the decision or action being appealed;
3. The relief requested, such as reversal or modification.

**B. PRE-HEARING CONFERENCE**

1. All parties to an appeal hearing shall be prepared for a pre-hearing conference with the Thurston County Hearing Examiner. The pre-hearing conference is held to structure the scope of the hearing.
2. Pre-hearing conferences may be held by telephone conference call.
3. The Hearing Examiner shall give reasonable notice to parties of any pre-hearing conference. Notice may be written or oral.
4. All parties shall be represented at a pre-hearing conference unless they waive the right to be present or represented.
5. Following the pre-hearing conference, the Hearing Examiner may issue an order reciting the actions taken or ruling on motions made at the conference.

**C. PARTIES REPRESENTATIVE REQUIRED**

When a party consists of more than one individual, or is a group, organization, corporation, or other entity, the appellant shall designate an individual to be its representative, and inform the Hearing Examiner's office of the name, address and telephone number of the designated representative. The rights of such an appellant shall be exercised by the person designated as the party representative. Notice or other communication to the party representative is considered to be notice or communication to party.

**D. PARTIES' RIGHTS AND RESPONSIBILITIES**

1. Although Appellants and Applicants have the right to be represented by an attorney, representation by an attorney is not required. Attorney representation is not discouraged.
2. Where a party has designated a representative, the representative shall exercise the rights of the party.
3. All parties and others participating in and observing hearings shall conduct themselves with civility and deal courteously with all persons involved in the proceedings.

**E. HEARING FORMAT**

1. Appeal hearings, although generally informal in nature, shall have a structured format and shall be conducted in a manner deemed by the Hearing Examiner to make the relevant evidence most readily and efficiently available to the Examiner and to provide the parties a fair opportunity for hearing.
2. The order of an appeal hearing will generally be as follows:
  - a. Examiner's introductory statement;
  - b. Background presentation by Department;
  - c. Appellant's argument;
  - d. Department's presentation;
  - e. Applicant's presentation;
  - f. Rebuttal;
  - g. Closing argument of parties.

**F. Hearing Examiner Decision will be issued within **ten (10) working days** of the hearing unless additional time is agreed to by the parties.**

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BEFORE THE HEARING EXAMINER  
IN AND FOR THE COUNTY OF THURSTON, WASHINGTON

In the matter of the Appeal of Thurston  
County SEPA Determination of  
Nonsignificance dated December 26,  
2024, on Project No. 2024105328, SEPA  
Folder No. XA 24-116030.

Project No. 2024105328, SEPA Folder  
No. XA 24-116030

**NOTICE OF ADMINISTRATIVE  
APPEAL RE. AMENDMENTS TO  
THURSTON COUNTY COUNTY-  
WIDE PLANNING POLICIES FOR  
URBAN GROWTH AREA (UGA)  
LAND SWAPS**

**I. INTRODUCTION AND DECISION BEING APPEALED**

Black Hills Audubon Society, Ronda Larson Kramer, Jonathan Kramer, and Gordon White (“Appellants”) respectfully submit this appeal pursuant to TCC 17.09.160. Appellants request that the Thurston County Hearing Examiner reverse and vacate the Determination of Nonsignificance (“DNS”) issued by the lead agency (Thurston County Community Planning and Economic Development Department (“CPED” or “lead agency”)) on December 26, 2024, for Project No. 2024105328, SEPA Folder No. XA 24-116030. *See Exhibit A.* The DNS does not comply with state law or with guidance from the Department of Ecology and Department of Commerce for performing State Environmental Policy Act (“SEPA”) review of Growth Management Act (“GMA”) policies. Appellants request that Thurston County halt further processing of the draft

1 County-Wide Planning Policies (CPPs) to ensure that that there is an adequate assessment of the  
2 environmental and natural resources impacts, including impacts to aquifers, water quality, instream  
3 flow protection, fisheries, and cultural resources. Additionally, the county should not finalize the  
4 CPPs until it finalizes its comprehensive plan. Otherwise, the CPPs risk being inconsistent with the  
5 comprehensive plan, which would violate the GMA.  
6

7 The draft CPPs at issue essentially direct Thurston County to accept requests by any city to  
8 (1) remove nonbuildable greenbelt and open space from a UGA, (2) in exchange for putting similar-  
9 sized parcels of rural and natural resource lands into the UGA to be developed at urban densities.  
10 (This is called a “UGA swap”). The Lead Agency answered “Not applicable. Not a project-specific  
11 proposal” to virtually every question on the SEPA checklist. Its DNS concluded that the proposed  
12 CPPs do not have a probable significant adverse impact upon the environment.<sup>1</sup>  
13

14 This is a flawed conclusion. The proposed language would have the effect of gradually  
15 eliminating greenbelts and open spaces from Thurston County’s UGAs. That would violate the  
16 GMA’s requirement that UGAs contain greenbelts and open spaces. *See* RCW 36.70A.110(2)  
17 (“Each urban growth area . . . shall include greenbelt and open space areas.”).

18 Moreover, the CPP language at issue in this appeal was proposed by two developers  
19 specifically for the purpose of enabling their proposed UGA swap to be approved in violation of  
20 the GMA. *See Exhibit B; Exhibit C* (see highlighted sections on page 2). The county put the  
21 developers’ proposed language into the draft CPP virtually unchanged. **Exhibit D** (see highlighted  
22 sections).  
23

24 In proposing subsection d of draft policy 2.6, the developers seek to avoid application of  
25 RCW 36.70A.110(8)(a) to their proposed development. That statute is what ensures that swaps do  
26

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<sup>1</sup> The proposed amendments also included language regarding tribal coordination. That proposed language is not at issue in this appeal.



1 not gradually eliminate greenbelts and open spaces from UGAs. The statute does this by prohibiting  
2 UGA swaps that increase development capacity of a UGA. Since the county hydrologist has already  
3 essentially found that the developers' proposed swap will increase the development capacity of the  
4 Tumwater UGA (*see Exhibit E* at 3 & 5), developers realized they needed to do some creative  
5 drafting if they were to have any chance of getting their development approved.  
6

7 Under developers' proposed language, only swaps during certain years would have to  
8 comply with RCW 36.70A.110(8) (*compare* subsection d with subsection e of draft policy 2.6).  
9 That violates the law. The legislature enacted RCW 36.70A.110(8) in 2024. As explained in the  
10 final bill report's bill summary, the law applies to all swaps in all years, whether those are during  
11 once-per-decade comprehensive plan "update" years or during interim years when the county  
12 makes "amendments." **Exhibit F** at 2 ("as part of its annual review of proposed *amendments*,  
13 *updates*, or revisions of its comprehensive plan," a county may consider doing a UGA swap).  
14

15 If the legislature had not made the 2024 law applicable to all swaps during all years,  
16 developers would be able to game the system by waiting for the update years to do the swap under  
17 a pre-existing swap law passed in 2022. The 2022 law has almost identical provisions to the 2024  
18 law except it is missing the two requirements meant to preserve greenbelts and critical aquifer  
19 recharge areas. **Exhibit G**. Because the 2024 law has all the same requirements as the 2022 law  
20 plus two more, it supersedes the 2022 law.  
21

22 The developers' proposed CPPs would also help them avoid application of the groundwater  
23 protections in RCW 36.70A.110(8)(d). Those protections provide, "the expanded urban growth  
24 area and the revised urban growth area must not result in a net increase in critical aquifer recharge  
25 areas within the urban growth area." Their proposed swap-in parcels are in CARA I (the most  
26 important groundwater protection classification), and the swap-out parcels are almost all in CARA

1 III (the least important groundwater protection classification). *See Exhibit H; Exhibit I.* As such,  
2 the swap would result in a net loss in groundwater protections--the parcel they plan to pave over is  
3 far more important to groundwater recharge than the parcels they want to remove from the UGA.  
4 Their proposed CPPs skirt the provisions of RCW 36.70A.110(8)(d).

5  
6 The developers' proposed development would be in what is now 33 acres of forestland at  
7 the corner of 93<sup>rd</sup> Avenue and Old Highway 99 south of Tumwater. *See Exhibit J.* Under current  
8 regulations, no more than six houses can be built there. It is 200 feet from the Deschutes River and  
9 is, as mentioned, all in a critical aquifer recharge area-extreme. **Exhibit H.** It is also a wildlife  
10 corridor. *See Exhibit K; Exhibit L; Exhibit M.*

11  
12 Developers seek to build a mini-city with 200 apartment units, an office park, gym, grocery  
13 store, storage units and other commercial and retail space. *See Exhibit N.* The county hydrologist  
14 has already determined that the proposed development could impact salmon runs in the Deschutes  
15 River. **Exhibit E** at 2. The Department of Ecology ("Ecology") deems the river high risk. *See*  
16 <https://apps.ecology.wa.gov/publications/documents/95158.pdf>.

17 Appellant Gordon White, now retired, used to be a water resource manager for Thurston  
18 County. In that capacity he managed the original studies of the Deschutes Watershed in the south  
19 Tumwater Area. The studies found that the Deschutes River receives the majority of its instream  
20 flows there from groundwater (other than in winter when it is rainy). Likewise, the current county  
21 hydrologist explained that paving the critical aquifer recharge area there would reduce instream  
22 flows in the Deschutes River. He also wrote that it would put development pressure on surrounding  
23 natural resource lands along the river to the south, resulting ultimately in even more pavement over  
24 CARA I and even more reduction in instream flows as development advances south along the river.  
25  
26 **Exhibit E** at 3.

1 In exchange for putting those 33 acres of forestland into the Tumwater UGA, the developers  
2 propose to swap out unbuildable<sup>2</sup> land near Black Lake and rezone it to Rural  
3 Residential/Resource—One Dwelling Unit per Five Acres (“RRR 1/5”). **Exhibit P.** Some of that  
4 swap-out land is in greenbelt status. *Id.* As such, rezoning it to RRR 1/5 would reduce its habitat  
5 protection level. In other words, their proposal to remove it from the UGA would reduce its  
6 protections, not increase its protections. In any case, swapping out unbuildable land and swapping  
7 in buildable land causes a net increase in development capacity in the UGA, which violates the  
8 GMA. *See* RCW 36.70A.110(8)(a).

## 10 II. NAMES, ADDRESSES, AND INTERESTS OF APPELLANTS

### 12 A. Appellants’ names and addresses.

13 Black Hills Audubon Society  
14 Attn: Sam Merrill  
15 PO Box 2524  
Olympia, WA 98507

16 Gordon White  
17 2431 Columbia St. SW  
Olympia WA 98501

18 Ronda Larson Kramer & Jonathan Kramer  
19 1814 Eastside St. SE  
20 Olympia WA 98501

### 22 B. Appellants have an interest in the proposed County-Wide Planning Policy on UGA swaps.

23 1. **Black Hills Audubon Society (BHAS).** Black Hills Audubon Society is a chapter of  
24 the National Audubon Society and represents Lewis, Mason, and Thurston counties in the state of  
25 Washington. It is an all-volunteer-based, non-profit organization whose 1,300-plus members share  
26

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<sup>2</sup> Exhibit E at 3; Exhibit O.

1 interests in birds and other wildlife, their habitats, and natural history. Its goals are to promote  
2 environmental education and recreation and to maintain and protect ecosystems for future generations.  
3 It has an interest in the proposed CPPs on UGA swaps because gradually eliminating greenbelts and  
4 open spaces from Thurston County UGAs would greatly impact BHAS members' ability to recreate,  
5 promote environmental education, and protect ecosystems. Likewise, allowing previously rural and  
6 natural resource lands to be put into a UGA and developed at an urban capacity would impact members  
7 in the same way.  
8

## 9 10 **2. Ronda Larson Kramer & Jonathan Kramer ("the Larson Kramers")**

11 The Larson Kramers have an interest in the proposed CPPs on UGA swaps for several  
12 reasons. First, they own 20 acres of working forestland ("Squalli-absch Family Forest") on the  
13 southern border of the developers' 33 acres of forestland—the 33 acres that motivated developers  
14 to create the CPPs in the first place. **Exhibit Q.** Because of cultural resources in the Squalli-absch  
15 Family Forest and on the developers' property, the Larson Kramers lead monthly forest walks for  
16 members of the public interested in history and nature. **Exhibit R; Exhibit S** (Photo of walk  
17 attendees with the 33-acre parcel visible through the trees in the background); **Exhibit T; Exhibit**  
18 **U** (Satellite map showing route of forest walk trail (pink line at top of page) on the border of the  
19 developer's 33-acre parcel to the north).  
20

21 Both the developers' 33-acre parcel and the Squalli-absch Family Forest are in the  
22 Nisqually Tribe's historic territory. Both contain one of the last unpaved remnants of the Cowlitz  
23 Trail/Oregon Trail, which is a potentially 9,000-year-old Native American trading route connecting  
24 Puget Sound and the Columbia River. **Exhibit Q & Exhibit T; see also** [https://www.pacific-](https://www.pacific-hwy.net/cowlitz.htm)  
25 [hwy.net/cowlitz.htm](https://www.pacific-hwy.net/cowlitz.htm). Additionally, both parcels were once owned by William H. Mitchell. **Exhibit**  
26 **V; Exhibit W.** He was the Thurston County sheriff's deputy who carried out Chief Leschi's

1 wrongful execution 11 years before acquiring the parcel and who later boasted that he had sent  
2 Leschi “to the happy hunting grounds.” **Exhibit X** (Excerpted pages from *Early History of*  
3 *Thurston County, Washington: Together with Biographies and Reminiscences of Those Identified*  
4 *with Pioneer Days*, Blankenship, Georgiana Mitchell (1914), pp. 264-265).

5  
6 The proposed CPPs would be detrimental to the cultural and historic resources on the  
7 parcels. SEPA requires such impacts to be considered because the impacts are a reasonable  
8 outcome of the proposed CPPs, especially given that the developers wrote those CPPs to open the  
9 door to their development getting approved. *See* WAC 197-11-960(13).

10 The Larson Kramers are also interested in the proposed CPPs because the proposed policy  
11 would interfere with the couple’s efforts to preserve a wildlife corridor that will connect the  
12 Cascade Mountains with the Olympics once the planned wildlife bridge is built on I-5 to the south.  
13 Without an environmental impact statement (“EIS”) under SEPA, decision-makers and the public  
14 have no way to know whether a particular UGA swap will cause habitat fragmentation.

15  
16 Washington State Department of Fish & Wildlife recommends contiguous space, as does  
17 Senate Bill 5203, which is currently being heard in the state senate. *See* WAC 365-190-130 (When  
18 classifying and designating critical areas, agricultural lands, forestland and mineral lands,  
19 “Counties and cities should consider . . . connections between larger habitat blocks and open  
20 spaces, integrating with open space corridor planning where appropriate . . .”); *see also* 2025  
21 Senate Bill 5203 (“Ensuring connectivity for Washington wildlife through safe passages”).

22  
23 The couple is in the process of putting a conservation easement on their parcel. The  
24 developer’s 33-acre parcel is a choke point in that wildlife corridor that is contiguous with 770  
25 acres of preserved lands and conservation easements owned by OlyEcosystems (“the Deschutes  
26

1 River Preserve”) and Capitol Land Trust. **Exhibit Y.** If the 33 acres is developed, this wildlife  
2 corridor would be forever blocked.

### 3 4 **3. Gordon White**

5 White is interested in the proposed CPPs because he helped draw the boundaries of the  
6 North County UGA in 1985; managed the original studies of the Deschutes Watershed in the south  
7 Tumwater Area when he was a water resource manager for Thurston County; and enforced SEPA,  
8 Shoreline Management, wetland, and GMA laws for the Department of Ecology for 23 years.

9  
10 During his time with the county in the 1980s and 1990s, he understood that UGA boundaries  
11 are a defensive wall against sprawl and damaging development. He understood that UGAs protect  
12 a lot of resources. He also understood that UGAs help keep development compact so that people  
13 living in them can afford to get from point A to point B when meeting their daily needs.

14 White believes that UGAs are the foundations of all urban planning. He believes that  
15 because of this, care must be taken when breaching that defensive wall. That includes doing an  
16 environmental impact statement for the proposed UGA swap policies. Only a few months ago the  
17 state Supreme Court held that an EIS is required for these types of non-project situations. *King*  
18 *County v. Friends of Sammamish Valley*, \_\_ P.3d \_\_, \_\_ Wn.2d \_\_ (No. 102177-1) (September 19,  
19 2024).<sup>3</sup> Ms. Larson Kramer informed planning staff about this decision more than once when she  
20 made public comments at planning commission meetings during the fall of 2024.

21  
22 White would also be impacted by the policies as someone who used to ensure compliance  
23 with SEPA and the GMA when he worked for Ecology for 23 years. When he was with the county,  
24 he was happy to do EISs because they would help protect the policies and regulations he himself  
25  
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<sup>3</sup> Available at  
<https://web.archive.org/web/20240920204207/https://www.courts.wa.gov/opinions/pdf/1021771.pdf>.

1 had put in place. EISs were not something to avoid. Because of his long career working to make  
2 sure Thurston County protects its water resources and other natural resources, the lack of an EIS in  
3 this case is quite troubling for him. He is concerned the county is violating core principles of SEPA  
4 that require it to disclose and prevent impacts from land use policies. He wants to make sure that  
5 his hard work through all those years does not get dismantled.  
6

7 **C. Appellants Have Standing Pursuant to SEPA to Challenge CPPs.**

8 All of the Appellants timely submitted comments to the county on the SEPA action. The  
9 appellants have standing to bring this action on a basis other than the language of the countywide  
10 planning policy statute, RCW 36.70A.210. *See Leschi Imp. Council v. Washington State Highway*  
11 *Commission*, 84 Wn.2d 271, 274, 525 P.2d 774 (1974). There is substantial evidence in the record  
12 to support a finding that appellants are adversely affected by the environmental repercussions of  
13 the proposed countywide planning policies. As persons directly affected, they therefore  
14 have standing to raise the SEPA issues. *Id.* (citing *Loveless v. Yantis*, 82 Wn.2d 754, 513 P.2d  
15 1023 (1973)). The appellants have standing to raise SEPA issues in proceedings that are initiated  
16 under RCW 36.70A because the provisions of SEPA are engrafted onto the existing statutory  
17 authorizations. *Id.* 84 Wn.2d at 275 (citing RCW 43.21C.060).  
18  
19

20 **III. SPECIFIC REASONS WHY THE DNS IS WRONG**

21  
22 **A. It is improper to wait to do an environmental review.**

23 At pages 14 to 15 of the SEPA checklist, in Part D, Supplemental Sheet for nonproject  
24 actions, the Lead Agency attempts to justify deferring review of impacts to when actual  
25 development occurs from a UGA swap. It is improper to wait to do an environmental review until  
26 the CPPs result in an actual project. This wrongly assumes county regulations are adequate to

1 mitigate environmental impacts. Potential impacts of the draft CPPs involve impacts to drinking  
2 water aquifers. Waiting for a project to result from the CPPs before doing an environmental review  
3 threatens such an important resource. Attempts to mitigate such impacts are rarely successful.

4         The law and guidance are clear that the proposed CPPs must be analyzed for likely impacts.  
5 Fortunately, the county has done an excellent job of creating environmental information about  
6 critical areas throughout the county. This information is available to use to review potential impacts  
7 from UGA swaps.  
8

9  
10 **B.       It was wrong to answer “Not Applicable” to almost all SEPA checklist questions.**

11         The most glaring problem with the DNS is that it cannot be considered an environmental  
12 review. The Lead Agency answered almost all questions on the SEPA checklist with “Not  
13 applicable. Not a project-specific proposal.” But environmental impacts are likely if the CPPs are  
14 adopted. Because the Lead Agency answered “not applicable” to the questions, it provided no data  
15 whatsoever. The checklist gives the impression that there is no data on which to perform a review  
16 of the policy, which is incorrect.

17         SEPA requires the lead agency to obtain reasonably sufficient and accurate information to  
18 evaluate the environmental impacts of a non-project action before issuing a threshold decision.  
19 Here, the decision was one in which the Lead Agency essentially closed its eyes and signed the  
20 DNS. Issuing the DNS after declining to consider environmental impacts is plain error.

21  
22         Moreover, answering “not applicable” just because the decision at issue is a non-project  
23 decision does not comply with recent case law. Under *King County v. Friends of Sammamish*  
24 *Valley*, the Washington Supreme Court held that SEPA requires King County to do an EIS on a  
25 non-project land use decision. The Court held that a DNS is unacceptable if significant  
26 environmental impacts are “likely to occur” as a result of the non-project decision: “The County



1 must *meaningfully* engage in the SEPA process when making a threshold determination and must  
2 complete a full environmental review where significant environmental impacts are likely to occur  
3 . . . .” *Friends of Sammamish Valley*, Slip Op. at 38 (emphasis in original). The Court also noted  
4 that the ordinance in that case created so many changes that “the complete lack of engagement with  
5 the environmental portion of the SEPA checklist by the County supports the” conclusion that the  
6 County made a mistake by issuing a DNS. *Id.*

8 Likewise, creating a new way to breach the walls of a UGA and eliminate greenbelts and  
9 open spaces from them is a significant change in the normal course of business for Thurston  
10 County. The lead agency’s complete lack of engagement with the SEPA checklist supports the  
11 conclusion that the DNS was a mistake.

13 **C. The DNS fails to reveal that the CPPs were written to effectuate a specific development**  
14 **proposal.**

15 On page 2 of the SEPA checklist, under Part A, Background, the answer to item 7 ignores  
16 the fact that the developers wrote the policy to open the door for their specific development. That  
17 question asks whether there are “plans for future additions, expansion, or further activity related to  
18 or connected with this proposal.” **Exhibit A** at 2<sup>4</sup> of SEPA checklist. The lead agency answered,  
19 “not applicable.” Yet, there are plans: the plans to develop the 33-acre parcel on Old Highway 99  
20 and 93<sup>rd</sup> Avenue. These are connected because the CPPs were written for the very purpose of  
21 getting that development proposal approved.

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<sup>4</sup> Although it is technically page 1, the page numbering on the SEPA checklist starts at page 2 and thus is off by one. To avoid confusion, this appeal follows the page numbers as they appear on the checklist.

1 **D. The Lead Agency gave an incomplete and incorrect description of the proposal.**

2 At the bottom of page 2 of the SEPA checklist, under Part A, Background, at item 11, the  
3 form asks for a complete description of the proposal. At the top of page 3, the Lead Agency's  
4 answer is a vague, short statement: "The proposed amendments to the County-Wide Planning  
5 Policies focus on two key areas: enhancing tribal coordination and addressing land swaps within  
6 the Urban Growth Area (UGA)."

7  
8 This is woefully inadequate, as explained below. But it is also wrong. A swap, by definition,  
9 involves land outside a UGA, not just land inside a UGA. This is particularly important because  
10 some of the conditions of the GMA swap rules require environmental and development capacity  
11 analysis of both sets of parcels, but the BLS covers only the parcels already in the UGA.

12  
13 **E. Nowhere does the Lead Agency mention UGA boundary changes.**

14 If one does a word search of the SEPA checklist for the words "boundary" or "boundaries,"  
15 it comes up with no results. Yet the entire purpose of the CPP is to allow changes to UGA  
16 boundaries. The failure to consider this is a significant oversight.

17  
18 In question f on page 9 of the SEPA checklist, under Part B, Environmental Elements, the  
19 form asks, "What is the current comprehensive plan designation of the site?" The Lead Agency  
20 answered, "The proposed amendments to the CWPPs are intended to inform and shape the  
21 development of comprehensive plan policies."

22 Such a vague answer does not get at the heart of the matter. It should have referred to the  
23 fact that the proposed CPPs will change the current comprehensive plan designation of virtually all  
24 sites involved with a swap proposed. Likewise, question e on that same page asks what the zoning  
25 is. The Lead Agency answered "Not applicable. Not a project-specific proposal. Varies throughout  
26

1 Thurston County.” It should have answered that the proposed CPPs will change the current zoning  
2 designation of virtually all sites involved with a swap proposed.

3  
4 **F. Nowhere does the Lead Agency mention elimination of greenbelts and open space.**

5 The SEPA checklist also fails to mention anything about elimination of greenbelts and open  
6 space from UGAs, even though that is one likely outcome of the CPPs. The idea that a UGA should  
7 become one giant parking lot also has huge environmental implications. It was an error not to  
8 address this in the environmental review.

9  
10 **G. Nowhere does the Lead Agency mention that the CPPs will enable reductions in**  
11 **groundwater protections.**

12 The GMA does not allow swaps that result in a net increase in critical aquifer recharge areas  
13 inside UGAs. But the CPPs do not adhere to this and as such would allow swaps that cause a net  
14 reduction in groundwater protections. The Lead Agency was required to address this in an  
15 environmental review. But they did not.

16  
17 **H. The proposed changes are not consistent with the comprehensive plan.**

18 In section L at the top of page 10, the Lead Agency wrote that the proposed changes to the  
19 CPPs are consistent with the county’s comprehensive plan. This is not possible, however. The  
20 comprehensive plan update is not finished yet.

21 On August 19, 2024, several community members, including Ronda Larson Kramer, gave  
22 public comments to the Thurston Regional Planning Council (“TRPC”) when it was set to merely  
23 discuss UGA swap policies. Community members asked TRPC to wait to make any swap policies  
24 until after the comprehensive plans were finished. That would have ensured that policy language  
25 was consistent with the comprehensive plan. Not only did the TRPC reject this approach, but it  
26 also amended the agenda mid-meeting to get the developers’ flawed CPP language approved before

1 any member of the public or any planning staff had even seen the language. *See* “How to Help the  
2 Housing Crisis,” Reader Opinion by Ronda Larson Kramer, the JOLT News, 10/8/2024 (viewable  
3 at <https://www.thejoltnews.com/stories/how-to-help-the-housing-crisis,17242>).  
4

5 **I. The DNS failed to address the fact that a buildable lands study of lands outside UGAs**  
6 **will be necessary if the CPPs are adopted.**

7 The GMA (RCW 36.70A.110(8)(a)) states that a swap cannot cause a net increase in  
8 development capacity inside the UGA. To comply with this requirement requires a careful analysis  
9 of any proposed swap-in parcel’s topography, critical areas, water, soils, etc. to calculate the  
10 buildable area. Because the Buildable Lands Study assesses buildable land area only inside UGAs,  
11 there is currently insufficient information on the development capacity of future proposed swap-in  
12 parcels. The DNS fails to address this issue, leaving the Board of County Commissioners in the  
13 dark regarding the unintended consequences of the proposed CPPs.  
14

15 **J. The draft CPPs are to be approved before the Department of Commerce finishes its UGA**  
16 **swap rulemaking, setting the stage for arbitrary and capricious actions.**

17 On page 2 of the SEPA checklist, under Part A, Background, question 6 asks for the  
18 proposed timing of the agency’s decision. The Lead Agency answered “January 2025.” The  
19 Washington State Department of Commerce is also, right now, writing rules for implementation of  
20 the swap laws. **Exhibit Z.** Those rules will supersede any inconsistent CPPs the county puts in  
21 place. But the Lead Agency leaves the Board of County Commissioners in the unenviable position  
22 of being asked to vote on a policy that will likely conflict with the Commerce Department’s  
23 regulations.  
24

25 And the likelihood that the proposed CPPs will conflict with Commerce’s forthcoming rules  
26 is high because the proposed CPPs already conflict with the GMA in multiple respects. *See, e.g.,*

**Exhibit AA** (Comments by Futurewise on the draft CPPs).

To avoid foreseeable arbitrary and capricious implementation of the swap laws in Thurston County, the county should wait until the state code is in place and then proceed based on rules consistent with what Commerce has then issued. In that way, the county can increase the likelihood that it will do swaps correctly. Futurewise mentioned that no county has yet been able to do them correctly. **Exhibit AA**, at 2 (“Futurewise has worked on several proposed urban growth area swaps. We have yet to see a swap that complies” with the GMA).

**K. The Lead Agency failed to mention the environmental information that it already has.**

On page 2 of the SEPA checklist, under Part A, Background, question 8 asks, “List any environmental information you know about that has been prepared, or will be prepared, directly related to this proposal.” The Lead Agency wrote, “N/A”. But that is not correct. Regardless of where a swap will occur in the future, the county has data right now. It has the Buildable Lands Study (BLS) from the TRPC and the current county maps of critical areas, protected wellheads, endangered species habitat, groundwater levels, aquifer levels and wells, hazards and a host of other environmental mapping done.

And even if one is speaking particularly of the current proposed swap that the CPPs were written to effectuate, the county has data on that, too. This data is part of the county’s standard GIS mapping service. A county hydrologist also prepared a hydrologic report on this particular swap proposal, providing even more data. **Exhibit E**.

**L. The SEPA checklist contains multiple incorrect answers in Part B with regard to the specific proposal that the CPPs were created to effectuate, as well as future proposed swaps. Below is a list of some of those incorrect answers.**

Question	Answer on SEPA	Correct Answer
B.1.b What is the steepest slope on the site?	Not Applicable.	Steep slopes are part of the Critical areas and therefore impact the %

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	Not a project-specific proposal.	of the parcels that is ‘developable’. The SEPA checklist should reflect this. An EIS should be required of the draft policy to analyze environmental impacts from swapping parcels with different critical area constraints to minimize environmental impacts and also provide information to assess whether the swap meets all the GMA requirements.
B.1.c What general types of soils are found on the site?	Not Applicable.	The SEPA checklist should state that the two sets of parcels swapped will have known, but varying types of soils, which are likely to have different types and magnitude of impact on how much development can be done, but also what effects there will be on agriculture, the expected impact to aquifers and county-wide water management. This affects what can be expected in terms of stormwater infrastructure and aquifer protections. An EIS of the draft policy should identify the range of potential impacts and inform how the combined jurisdictions can minimize these environmental impacts.
B.1.f - Could erosion occur as a result of clearing, construction, or use? If so, generally describe.	Not Applicable.	The SEPA checklist for the draft UGA policy should reflect that the 2 sets of parcels are very likely to have different erosion risks and risk levels, and that impact needs to be exposed and considered at the outset. The information for this answer is important for environmental protection of the rural area that’s going to be developed. An EIS of the draft policy should identify the range of potential impacts and recommend how the jurisdictions jointly can minimize these environmental impacts.

1	B.1.g -	Not	The SEPA checklist should state
2	About what percent of the	Applicable.	that when swapping sites, the
3	site will be covered with		zoning limits on impervious
4	impervious surfaces after		surface can result in huge
5	project construction (for		environmental impacts.
6	example, asphalt or		Impervious surface represents
7	buildings)?		habitat loss inside or outside the
8			UGA, so changing from farmland
9			or other rural uses (nearly none) to
10			85% in an Arterial Commercial
11			zone would have an enormous
12			environmental impact. An EIS
13			should identify the range of
14			possible impacts and recommend
15			how to minimize these cumulative
16			impacts. Here, considerations
17			should include habitat loss and
18			potential extirpation probabilities
19			for listed species and whether
20			mitigation should be considered.
21	B.3.a. 4.	Not	The SEPA checklist should state
22	Will the proposal require	Applicable.	that it is likely that enabling swaps
23	surface water withdrawals or		will have environmental impacts
24	diversions? Give general		on surface water, and this is a
25	description, purpose, and		critical and declining resource for
26	approximate quantities if		people and Wildlife. An EIS of
	known.		the draft swap policy should
			identify the range of possible
			impacts on surface waters, whether
			they could violate any treaties or
			federal species protections and
			recommend how to minimize these
			impacts.
	B.3.b.1.	Not	The SEPA checklist should state
	Will groundwater be	Applicable.	swaps are likely to require the new
	withdrawn from a well for		UGA parcels to be served by
	drinking water or other		municipal water systems. If not,
	purposes?		the new parcels must have water
			rights associated with them. An
			EIS should identify the range of
			potential impacts and inform how
			the combined jurisdictions can
			minimize these environmental
			impacts.
	B.3.c. 1-3	Not	The SEPA checklist should state
		applicable	that swaps are likely to have an

1	Water runoff (including stormwater):		impact on stormwater flood risk and possible contamination of priority streams and wetlands, by virtue of increasing development in previously rural areas. Also, stormwater that previously drained into nearby areas may be diverted to other areas. An EIS of the draft policy should identify the range of potential impacts and inform how the combined jurisdictions can minimize these environmental impacts.
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9	B.2.c Air. What types of emissions to the air would result from the proposal during construction, operation, and maintenance when the project is completed?	Not Applicable	The SEPA checklist should state that swaps are likely to convert forested or other agricultural land to developed areas with a lot of impervious surface. They also may result in paving over wetlands that would not have been paved, pre-swap. This kind of paving and other building impacts, both during construction and when the site is being used, will impact the greenhouse gas (GHG) emissions. Over time, and especially if many swaps are permitted, this development will significantly impact the County's climate change commitments. An EIS for the draft policy should identify GHG possible magnitude of change to be brought by swaps and recommend policy options to reduce the risk of high magnitude changes.
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22	B.4.c Plants - List threatened and endangered species on or near the site	Not Applicable	The SEPA checklist should state that there will be effects on endangered plant species. The state has mapped endangered plants in the county. An EIS of the draft policy should identify how to handle swaps that threaten to extirpate these species (or create conditions for invasives) and recommend policy options for
23			
24			
25			
26			



		minimizing environmental damage and assessing whether the swap is a net benefit to the public.
5.b. Animals - List any threatened and endangered species known to be on or near the site.	n/a	The SEPA checklist should state that swaps could possibly endanger protected species. The state has mapped endangered species habitats in the county. The EIS for the draft policy should identify how to handle swaps that threaten to finally extirpate these species (or create conditions for invasives) and recommend policy options for avoiding local extinction as part of assessing whether the swap is a net benefit to the public.

#### IV. LEGAL STANDARDS

##### A. SEPA

SEPA requires the preparation of an EIS for any “major action significantly affecting the quality of the environment.” RCW 43.21C.030. The basic purpose of this command is “to require local governments to consider total environmental and ecological factors to the fullest extent when taking ‘major actions significantly affecting the quality of the environment.’” *Lassila v. Wenatchee*, 89 Wn.2d 804, 813, 576 P.2d 54 (1978) (quoting RCW 43.21C.030); *Sisley v. San Juan Cy.*, 89 Wn.2d 78, 82, 569 P.2d 712 (1977).

##### B. GMA and CPPs

In the GMA, the state Legislature recognized that uncoordinated and unplanned growth poses a threat to the environment, sustainable economic development, and the health, safety and quality of life. The Act required counties and cities to adopt comprehensive plans that were to be coordinated and consistent with the plans adopted by other counties or cities with which the county

1 or city has common borders or related regional issues, as expressed by the GMA. This requirement  
2 is an aspect of comprehensive planning that is integral to the public interest.

3         Given the consistency requirement of the GMA and the role that CPPs play in assuring that  
4 consistency, the proposed CPPs may constrain the county's otherwise considerable discretion in  
5 formulating its comprehensive plan. The CPPs at issue essentially direct Thurston County to accept  
6 requests by any city to remove nonbuildable greenbelt and open space from a UGA in exchange  
7 for putting similar-sized parcels of rural and natural resource lands into the UGA to be developed  
8 at urban densities.  
9

### 10 **C. Integrating SEPA and the GMA.**

11         Environmental analysis at each stage of the Growth Management Act (GMA) planning  
12 process should, at a minimum, address the environmental impacts associated with planning  
13 decisions at that stage of the planning process. WAC 197-11-210(3). Environmental analysis that  
14 analyzes environmental impacts in the GMA planning process can: (a) Result in better-informed  
15 GMA planning decisions; (b) Avoid delays, duplication and paperwork in project-level  
16 environmental analysis; and (c) Narrow the scope of environmental review and mitigation under  
17 SEPA at the project level. *Id.*  
18  
19

20         The process of integrating SEPA and GMA should begin at the early stages of plan  
21 development. One purpose of an integrated GMA document (*see* WAC 197-11-235) is to ensure  
22 that studies conducted early in the planning and environmental analysis process are available and  
23 useful throughout the planning and analysis process. WAC 197-11-228(2)(c).  
24

25         If a proposed GMA action is not likely to have a significant adverse environmental impact,  
26 an integrated GMA document shall be prepared that combines the formal SEPA document (such  
as an environmental checklist/DNS, a notice of adoption or addendum) with the GMA document.

1 WAC 197-11-235(3). If an environmental checklist is used and a DNS issued, a fact sheet and an  
2 environmental summary as specified in WAC 197-11-235(5) must be included. *Id.*

3 The environmental summary should emphasize the major conclusions, significant areas of  
4 controversy and uncertainty, if any, and the issues to be resolved, including the environmental  
5 choices to be made and the effectiveness of mitigation measures. WAC 197-11-235(5)(a). The  
6 summary is not to be a summary of the GMA action. *Id.*

7  
8 The summary should highlight from an environmental perspective the main options that  
9 would be preserved or foreclosed by the proposed GMA action. It should reflect SEPA's  
10 substantive policies and focus on any significant irreversible or irretrievable commitments of  
11 natural resources that would be likely to harm long-term environmental productivity, taking into  
12 account cumulative impacts. A summary of the principal environmental impacts may be presented  
13 in chart or matrix form, summarizing the relevant elements of the environment and impact  
14 assessment required by WAC 197-11-440 (6)(b) through (e). The summary may discuss  
15 nonenvironmental factors and should do so if relevant to resolving issues concerning the main  
16 environmental choices facing decision makers.

#### 17 18 19 **D. Burden of proof.**

20 An agency that determines that a proposal will not result in a significant impact bears the  
21 burden of demonstrating "that environmental factors were considered in a manner sufficient to be  
22 prima facie compliance with the procedural dictates of SEPA." *Bellevue v. Boundary Rev. Bd*, 90  
23 Wn.2d 856, 867, 586 P.2d 470 (1978). For example, the threshold determination must be based on  
24 information sufficient to evaluate the proposal's environmental impact. *Boehm v. City of*  
25 *Vancouver*, 111 Wn. App. 711, 718, 47 P.3d 137, 141 (2002).  
26

1 In addition, a court will not uphold a DNS unless the record demonstrates that the  
2 government gave actual consideration to the environmental impact of the proposed action or  
3 recommendation. *Id.* An incorrect threshold determination will be vacated because it thwarts  
4 SEPA's policy to ensure the full disclosure of environmental information so that environmental  
5 matters can be given proper consideration during decision making. *Norway Hill Pres. & Prot. Ass'n*  
6 *v. King County Council*, 87 Wn.2d 267,273,552 P.2d 674 (1976)).  
7

## 8 V. DISCUSSION

9  
10 UGAs exist to protect vital resources. Thurston County's UGAs were established to ensure  
11 adequate room for future urban development that is efficiently served by urban services. They are  
12 also meant to prevent further encroachment into rural natural resource areas and to prevent the  
13 environmental impacts that urban land uses can have on rural lands.

14 Current UGA boundaries have adequate room for the county's 20-year population forecast.  
15 There is no need to rush the draft CPPs through with an inadequate SEPA review. In compliance  
16 and in the spirit of the GMA, the original UGA boundaries focused on directing high density  
17 residential, commercial, and industrial development into areas least damaging to the environment  
18 and away from critical areas such as steep bluffs, sources of drinking water, floodplains, and  
19 wetlands. As a result, there are important environmental resources protected by the UGA  
20 boundaries.  
21

22 The Lead Agency's environmental review of the proposed CPPs did not evaluate the likely  
23 specific environmental impact of the policies. These policies will likely lead to changes in UGA  
24 boundaries. It is perhaps doubly important to review the impacts because the concept of UGA  
25 swaps is a relatively new one. It was first enacted into state law in 2022, with the most recent swap  
26 law enacted just last year.

1 A county-led EIS would allow for transparency in the impacts the public might face from a  
2 swap. The Lead Agency should complete an EIS on how the proposed CPPs could impact critical  
3 areas, including groundwater, salmon-bearing streams, and wetlands. An EIS should also evaluate  
4 the impact of the CPPs on rural/agricultural transportation corridors and other rural/agricultural  
5 uses that are adjacent to UGAs.  
6

7 For instance, developers might try to convince the City of Lacey to propose extending the  
8 UGA boundary to the bluffs overlooking the Nisqually Wildlife Refuge. The county already has  
9 studies and other information that would inform it on how such a swap would impact critical areas.  
10 That is information that the county should have used in the SEPA review of the CPPs.  
11

12 Other likely impacts of the proposed CPPs include pressure to extend the North County  
13 UGA closer to the McAllister Springs Well Fields. Developers might ask for such a swap so that  
14 they could build houses with a great view opportunity and a potential commercial district to serve  
15 that area. In this example, the county also has access to studies and other information that would  
16 inform the public and decision-makers of the impact from such use of the CPPs. These are just two  
17 examples of how developers could lobby a jurisdiction to get their property rezoned and reclassified  
18 for high density development under the proposed CPPs.  
19

20 While there may be some safeguards in the proposed CPPs for reviewing UGA swaps, such  
21 safeguards do not constitute a thorough environmental impact assessment. The proposed CPPs do  
22 not guarantee that these resources will be protected if a swap is approved. The proposed policy  
23 language is permissive and not protective. Lack of environmental review prevents full  
24 understanding of the impact of these policies.  
25  
26

1 Without such an analysis, the Board of County Commissioners and citizens cannot know  
2 the environmental impact of these proposed CPPs. Lack of adequate environmental review  
3 undermines county and city compliance with SEPA and the GMA.  
4

5 **VI. DESIRED OUTCOME/RELIEF REQUESTED**

6 Appellants respectfully request the following relief:

- 7 (1) An order rescinding the DNS and requiring that the lead agency undertake a full EIS; and  
8 (2) Such other and further relief as the Hearing Examiner may deem just and equitable.  
9

10  
11 Dated this 30th day of January, 2025.

12  
13   
14 Ronda Larson Kramer

# **Exhibit A**

Project No. 2024105328, SEPA Folder No. XA 24-116030



## COMMUNITY PLANNING & ECONOMIC DEVELOPMENT

3000 Pacific Ave SE, Olympia, WA 98501  
TTY/TDD call 711 or 1-800-833-6388

Website: [ThurstonCPED.org](http://ThurstonCPED.org)

Creating Solutions for Our Future

Ashley Arai, Director

### SEPA DETERMINATION OF NONSIGNIFICANCE (DNS) (REVISED)

**Proponent / Lead Agency** Thurston County  
Community Planning & Economic Development Department  
3000 Pacific Ave SE  
Olympia, WA 98501  
Contact: Andrew Boughan, (360) 522-0553

**Description of Proposal** This SEPA review is for amendments to the Thurston County County-Wide Planning Policies. The proposed amendments focus on two primary areas: tribal coordination and Urban Growth Area (UGA) land swaps.

**Project No.** 2024105328  
**SEPA Folder No.** XA 24-116030

**Location of Proposal** Thurston County

**Threshold Determination** The lead agency for this proposal has determined that it does not have a probable significant adverse impact upon the environment. An Environmental Impact Statement is not required under RCW 43.21C.030(2)(c). This decision was made after review by the Lead Agency of a completed Environmental Checklist and other information on file with the Lead Agency. This information is available to the public at [www.thurstonplanning.org](http://www.thurstonplanning.org) or upon request.

**Responsible Official** Ashley Arai, Director

**Date of Issuance:** December 26, 2024  
**Comment Deadline:** January 23, 2025 (Comment Period Extended 14 Days from 1/9/25)  
**Appeal Deadline:** January 30, 2025 (Appeal Deadline Extended to Align with New Deadline)

Ashley Arai, Director

This Determination of Nonsignificance (DNS) is issued under WAC 197-11-340. The lead agency will not act on this proposal for 14 days from the date of issue or until the appeal period has



passed, if applicable. No permits may be issued, and the applicant shall not begin work until after the comment and any appeal periods have expired and any other necessary permits are issued. If conditions are added, deleted, or modified during the 14-day review period, a modified DNS will be issued. Otherwise, this DNS will become final after the expiration of the comment deadline and appeal period, if applicable.

### **Appeals**

Threshold determinations may be appealed pursuant to TCC 17.09.160 if: (1) a written notice of appeal, meeting the requirements of TCC 17.09.160(D), and the appropriate appeal fee is received by the Thurston County Community Planning and Economic Development Department within seven (7) calendar days of the last day of the comment period on the threshold determination and; (2) the person filing the appeal is an aggrieved party and submitted written comments prior to the comment deadline, per the requirements of TCC 17.09.160(B).

NOTE: The issuance of this Determination of Nonsignificance does not constitute project approval. The applicant must comply with all applicable requirements of Thurston County Departments and/or the Hearing Examiner prior to receiving permits.



**THURSTON COUNTY**  
**Community Planning & Economic Development**  
**ENVIRONMENTAL CHECKLIST**

**A. Background** [\[HELP\]](#)

1. Name of proposed project, if applicable:

County-Wide Planning Policies Update

2. Name of applicant:

Thurston County, Community Planning &  
Economic Development

3. Address and phone number of applicant and contact person:

Andrew Boughan, 3000 Pacific Ave SE, Olympia, WA 98501

4. Date checklist prepared:

12/23/2024

5. Agency requesting checklist:

Thurston County

6. Proposed timing or schedule (including phasing, if applicable):

Adoption planned by January 2025

7. Do you have any plans for future additions, expansion, or further activity related to or connected with this proposal? If yes, explain.

N/A

8. List any environmental information you know about that has been prepared, or will be prepared, directly related to this proposal.

N/A

9. Do you know whether applications are pending for governmental approvals of other proposals directly affecting the property covered by your proposal? If yes, explain.

N/A

10. List any government approvals or permits that will be needed for your proposal, if known.

Legislative amendment- Board of County Commissioners Approval Required.

11. Give brief, complete description of your proposal, including the proposed uses and the size of the project and site. There are several questions later in this checklist that ask you to describe certain aspects of your proposal. You do not need to repeat those answers on this page. (Lead agencies may modify this form to include additional specific information on project description.)

\* \* \* \* OFFICIAL USE ONLY \* \* \* \*

Folder Sequence # XA 24-116030

Project # 2024105328

Related Cases: Click or tap here to enter text.

Date Received: Click or tap to enter a date.

By: Click or tap here to enter text.

\* \* \* \* OFFICIAL USE ONLY \* \* \* \*

The proposed amendments to the County-Wide Planning Policies focus on two key areas: enhancing tribal coordination and addressing land swaps within the Urban Growth Area (UGA).

12. Location of the proposal. Give sufficient information for a person to understand the precise location of your proposed project, including a street address, if any, and section, township, and range, if known. If a proposal would occur over a range of area, provide the range or boundaries of the site(s). Provide a legal description, site plan, vicinity map, and topographic map, if reasonably available. While you should submit any plans required by the agency, you are not required to duplicate maps or detailed plans submitted with any permit applications related to this checklist.

The proposed amendments apply to all Thurston County.



**THURSTON COUNTY**  
**Community Planning & Economic Development**  
**ENVIRONMENTAL ELEMENTS**

**B. Environmental Elements** [\[help\]](#)

**1. Earth** [\[help\]](#)

a. General description of the site: (check one):

- ☐ Flat
- ☐ Rolling
- ☐ Hilly
- ☐ Steep Slopes
- ☐ Mountainous
- ☒ Other: Varies throughout the county

b. What is the steepest slope on the site (approximate percent slope)?

Not Applicable. Not a project-specific proposal. Varies throughout Thurston County.

c. What general types of soils are found on the site (for example, clay, sand, gravel, peat, muck)? If you know the classification of agricultural soils, specify them and note any agricultural land of long-term commercial significance and whether the proposal results in removing any of these soils.

Not Applicable. Not a project-specific proposal. Varies throughout Thurston County.

d. Are there surface indications or history of unstable soils in the immediate vicinity? If so, describe.

Not Applicable. Not a project-specific proposal.

e. Describe the purpose, type, total area, and approximate quantities and total affected area of any filling, excavation, and grading proposed. Indicate source of fill.

Not Applicable. Not a project-specific proposal.

f. Could erosion occur as a result of clearing, construction, or use? If so, generally describe.

Not Applicable. Not a project-specific proposal.

g. About what percent of the site will be covered with impervious surfaces after project construction (for example, asphalt or buildings)?

Not Applicable. Not a project-specific proposal.

h. Proposed measures to reduce or control erosion, or other impacts to the earth, if any:

Not Applicable. Not a project-specific proposal.

**2. Air** [\[help\]](#)

a. What types of emissions to the air would result from the proposal during construction, operation, and maintenance when the project is completed? If any, generally describe and give approximate quantities

if known.

Not Applicable. Not a project-specific proposal.

- b. Are there any off-site sources of emissions or odor that may affect your proposal? If so, generally describe.

Not Applicable. Not a project-specific proposal.

- c. Proposed measures to reduce or control emissions or other impacts to air, if any:

Not Applicable. Not a project-specific proposal.

### 3. **Water** [\[help\]](#)

- a. Surface Water: [\[help\]](#)

- 1) Is there any surface water body on or in the immediate vicinity of the site (including year-round and seasonal streams, saltwater, lakes, ponds, wetlands)? If yes, describe type and provide names. If appropriate, state what stream or river it flows into.

Not Applicable. Not a project-specific proposal. Varies throughout Thurston County.

- 2) Will the project require any work over, in, or adjacent to (within 200 feet) the described waters? If yes, please describe and attach available plans.

Not Applicable. Not a project-specific proposal.

- 3) Estimate the amount of fill and dredge material that would be placed in or removed from surface water or wetlands and indicate the area of the site that would be affected. Indicate the source of fill material.

Not Applicable. Not a project-specific proposal.

- 4) Will the proposal require surface water withdrawals or diversions? Give general description, purpose, and approximate quantities if known.

Not Applicable. Not a project-specific proposal.

- 5) Does the proposal lie within a 100-year floodplain? If so, note location on the site plan.

Not Applicable. Not a project-specific proposal. Varies throughout Thurston County.

- 6) Does the proposal involve any discharges of waste materials to surface waters? If so, describe the type of waste and anticipated volume of discharge.

Not Applicable. Not a project-specific proposal.

- b. Ground Water: [\[help\]](#)

- 1) Will groundwater be withdrawn from a well for drinking water or other purposes? If so, give a general description of the well, proposed uses and approximate quantities withdrawn from the well. Will water be discharged to groundwater? Give general description, purpose, and approximate quantities if known.

Not Applicable. Not a project-specific proposal.

- 2) Describe waste material that will be discharged into the ground from septic tanks or other sources, if any (Examples: Domestic sewage; industrial, containing the following chemicals. . .; agricultural; etc.). Describe the general size of the system, the number of such systems, the number of houses to be served (if applicable), or the number of animals or humans the system(s) are expected to serve.

Not Applicable. Not a project-specific proposal.

c. Water runoff (including stormwater):

- 1) Describe the source of runoff (including storm water) and method of collection and disposal, if any (include quantities, if known). Where will this water flow? Will this water flow into other waters? If so, describe.

Not Applicable. Not a project-specific proposal.

- 2) Could waste materials enter ground or surface waters? If so, generally describe.

Not Applicable. Not a project-specific proposal.

- 3) Does the proposal alter or otherwise affect drainage patterns in the vicinity of the site? If so, describe.

Not Applicable. Not a project-specific proposal.

- d. Proposed measures to reduce or control surface, ground, and runoff water, and drainage pattern impacts, if any:

Not Applicable. Not a project-specific proposal.

#### 4. **Plants** [\[help\]](#)

a. Check the types of vegetation found on the site:

- ☒deciduous tree: alder, maple, aspen, other
- ☒evergreen tree: fir, cedar, pine, other
- ☒shrubs
- ☒grass
- ☒pasture
- ☒crop or grain
- ☒Orchards, vineyards or other permanent crops.
- ☒wet soil plants: cattail, buttercup, bullrush, skunk cabbage, other
- ☒water plants: water lily, eelgrass, milfoil, other
- ☒other types of vegetation: Varies throughout Thurston County

b. What kind and amount of vegetation will be removed or altered?

Not Applicable. Not a project-specific proposal. Varies throughout Thurston County.

c. List threatened and endangered species known to be on or near the site.

Not Applicable. Not a project-specific proposal. Varies throughout Thurston County.

- d. Proposed landscaping, use of native plants, or other measures to preserve or enhance vegetation on the site, if any:

Not Applicable. Not a project-specific proposal.

- e. List all noxious weeds and invasive species known to be on or near the site.

Not Applicable. Not a project-specific proposal.

## **5. Animals** [\[help\]](#)

- a. List any birds and other animals which have been observed on or near the site or are known to be on or near the site.

Examples include:

birds: ☐ hawk, ☐ heron, ☐ eagle, ☐ songbirds, ☒ other: Varies throughout Thurston County

mammals: ☐ deer, ☐ bear, ☐ elk, ☐ beaver, ☒ other: Varies throughout Thurston County

fish: ☐ bass, ☐ salmon, ☐ trout, ☐ herring, ☐ shellfish, ☒ other: Varies throughout Thurston County

- b. List any threatened and endangered species known to be on or near the site.

Not Applicable. Not a project-specific proposal. Varies throughout Thurston County.

- c. Is the site part of a migration route? If so, explain.

Not Applicable. Not a project-specific proposal. Varies throughout Thurston County.

- d. Proposed measures to preserve or enhance wildlife, if any:

Not Applicable. Not a project-specific proposal.

- e. List any invasive animal species known to be on or near the site.

Not Applicable. Not a project-specific proposal.

## **6. Energy and Natural Resources** [\[help\]](#)

- a. What kinds of energy (electric, natural gas, oil, wood stove, solar) will be used to meet the completed project's energy needs? Describe whether it will be used for heating, manufacturing, etc.

Not Applicable. Not a project-specific proposal.

- b. Would your project affect the potential use of solar energy by adjacent properties? If so, generally describe.

Not Applicable. Not a project-specific proposal.

- c. What kinds of energy conservation features are included in the plans of this proposal? List other proposed measures to reduce or control energy impacts, if any:

Not Applicable. Not a project-specific proposal.

## **7.Environmental Health** [\[help\]](#)

- a. Are there any environmental health hazards, including exposure to toxic chemicals, risk of fire and explosion, spill, or hazardous waste, that could occur as a result of this proposal? If so, describe.

Not Applicable. Not a project-specific proposal.

- 1) Describe any known or possible contamination at the site from present or past uses.

Not Applicable. Not a project-specific proposal.

- 2) Describe existing hazardous chemicals/conditions that might affect project development and design. This includes underground hazardous liquid and gas transmission pipelines located within the project area and in the vicinity.

Not Applicable. Not a project-specific proposal.

- 3) Describe any toxic or hazardous chemicals that might be stored, used, or produced during the project's development or construction, or at any time during the operating life of the project.

Not Applicable. Not a project-specific proposal.

- 4) Describe special emergency services that might be required.

Not Applicable. Not a project-specific proposal.

- 5) Proposed measures to reduce or control environmental health hazards, if any:

Not Applicable. Not a project-specific proposal.

### **b. Noise**

- 1) What types of noise exist in the area which may affect your project (for example: traffic, equipment, operation, other)?

Not Applicable. Not a project-specific proposal. Varies throughout Thurston County.

- 2) What types and levels of noise would be created by or associated with the project on a short-term or a long-term basis (for example: traffic, construction, operation, other)? Indicate what hours noise would come from the site.

Not Applicable. Not a project-specific proposal.

- 3) Proposed measures to reduce or control noise impacts, if any:

Not Applicable. Not a project-specific proposal.

## **8.Land and Shoreline Use** [\[help\]](#)

- a. What is the current use of the site and adjacent properties? Will the proposal affect current land uses on nearby or adjacent properties? If so, describe.



Not Applicable. Not a project-specific proposal. Varies throughout Thurston County.

- b. Has the project site been used as working farmlands or working forest lands? If so, describe. How much agricultural or forest land of long-term commercial significance will be converted to other uses as a result of the proposal, if any? If resource lands have not been designated, how many acres in farmland or forest land tax status will be converted to nonfarm or nonforest use?

Not Applicable. Not a project-specific proposal.

- 1) Will the proposal affect or be affected by surrounding working farm or forest land normal business operations, such as oversize equipment access, the application of pesticides, tilling, and harvesting? If so, how:

Not Applicable. Not a project-specific proposal.

- c. Describe any structures on the site.

Not Applicable. Not a project-specific proposal.

- d. Will any structures be demolished? If so, what?

Not Applicable. Not a project-specific proposal.

- e. What is the current zoning classification of the site?

Not Applicable. Not a project-specific proposal. Varies throughout Thurston County.

- f. What is the current comprehensive plan designation of the site?

The proposed amendments to the CWPPs are intended to inform and shape the development of comprehensive plan policies.

- g. If applicable, what is the current shoreline master program designation of the site?

Not Applicable. Not a project-specific proposal. Varies throughout Thurston County.

- h. Has any part of the site been classified as a critical area by the city or county? If so, specify.

Not Applicable. Not a project-specific proposal. Varies throughout Thurston County.

- i. Approximately how many people would reside or work in the completed project?

Not Applicable. Not a project-specific proposal. Varies throughout Thurston County.

- j. Approximately how many people would the completed project displace?

Not Applicable. Not a project-specific proposal.

- k. Proposed measures to avoid or reduce displacement impacts, if any:

Not Applicable. Not a project-specific proposal.

- L. Proposed measures to ensure the proposal is compatible with existing and projected land uses and plans, if any:

The proposed amendments are compatible with the Thurston County Comprehensive Plan.

- m. Proposed measures to reduce or control impacts to agricultural and forest lands of long-term commercial significance, if any:

Not Applicable. Not a project-specific proposal.

### **9. Housing** [\[help\]](#)

- a. Approximately how many units would be provided, if any? Indicate whether high, middle, or low-income housing.

Not Applicable. Not a project-specific proposal.

- b. Approximately how many units, if any, would be eliminated? Indicate whether high, middle, or low-income housing.

Not Applicable. Not a project-specific proposal.

- c. Proposed measures to reduce or control housing impacts, if any:

Not Applicable. Not a project-specific proposal.

### **10. Aesthetics** [\[help\]](#)

- a. What is the tallest height of any proposed structure(s), not including antennas; what is the principal exterior building material(s) proposed?

Not Applicable. Not a project-specific proposal.

- b. What views in the immediate vicinity would be altered or obstructed?

Not Applicable. Not a project-specific proposal.

- c. Proposed measures to reduce or control aesthetic impacts, if any:

Not Applicable. Not a project-specific proposal.

### **11. Light and Glare** [\[help\]](#)

- a. What type of light or glare will the proposal produce? What time of day would it mainly occur?

Not Applicable. Not a project-specific proposal.

- b. Could light or glare from the finished project be a safety hazard or interfere with views?

Not Applicable. Not a project-specific proposal.

- c. What existing off-site sources of light or glare may affect your proposal?

Not Applicable. Not a project-specific proposal.

- d. Proposed measures to reduce or control light and glare impacts, if any:

Not Applicable. Not a project-specific proposal.

## **12. Recreation** [\[help\]](#)

- a. What designated and informal recreational opportunities are in the immediate vicinity?

Not Applicable. Not a project-specific proposal.

- b. Would the proposed project displace any existing recreational uses? If so, describe.

Not Applicable. Not a project-specific proposal.

- c. Proposed measures to reduce or control impacts on recreation, including recreation opportunities to be provided by the project or applicant, if any:

Not Applicable. Not a project-specific proposal.

## **13. Historic and Cultural Preservation** [\[help\]](#)

- a. Are there any buildings, structures, or sites, located on or near the site that are over 45 years old listed in or eligible for listing in national, state, or local preservation registers? If so, specifically describe.

Not Applicable. Not a project-specific proposal. Varies throughout Thurston County.

- b. Are there any landmarks, features, or other evidence of Indian or historic use or occupation? This may include human burials or old cemeteries. Are there any material evidence, artifacts, or areas of cultural importance on or near the site? Please list any professional studies conducted at the site to identify such resources.

Not Applicable. Not a project-specific proposal.

- c. Describe the methods used to assess the potential impacts to cultural and historic resources on or near the project site. Examples include consultation with tribes and the department of archeology and historic preservation, archaeological surveys, historic maps, GIS data, etc.

Not Applicable. Not a project-specific proposal.

- d. Proposed measures to avoid, minimize, or compensate for loss, changes to, and disturbance to resources. Please include plans for the above and any permits that may be required.

Not Applicable. Not a project-specific proposal.

## **14. Transportation** [\[help\]](#)

- a. Identify public streets and highways serving the site or affected geographic area and describe proposed access to the existing street system. Show on site plans, if any.

Not Applicable. Not a project-specific proposal. Varies throughout Thurston County.

- b. Is the site or affected geographic area currently served by public transit? If so, generally describe. If not, what is the approximate distance to the nearest transit stop?

Not Applicable. Not a project-specific proposal. Varies throughout Thurston County.

- c. Will the proposal require any new or improvements to existing roads, streets, pedestrian, bicycle or state transportation facilities, not including driveways? If so, generally describe (indicate whether public or private).

Not Applicable. Not a project-specific proposal.

- d. Will the project or proposal use (or occur in the immediate vicinity of) water, rail, or air transportation? If so, generally describe.

Not Applicable. Not a project-specific proposal.

- e. How many vehicular trips per day would be generated by the completed project or proposal? If known, indicate when peak volumes would occur and what percentage of the volume would be trucks (such as commercial and nonpassenger vehicles). What data or transportation models were used to make these estimates?

Not Applicable. Not a project-specific proposal.

- f. Will the proposal interfere with, affect or be affected by the movement of agricultural and forest products on roads or streets in the area? If so, generally describe.

Not Applicable. Not a project-specific proposal.

- g. Proposed measures to reduce or control transportation impacts, if any:

Not Applicable. Not a project-specific proposal.

## **15. Public Services** [\[help\]](#)

- a. Would the project result in an increased need for public services (for example: fire protection, police protection, public transit, health care, schools, other)? If so, generally describe.

Not Applicable. Not a project-specific proposal.

- b. Proposed measures to reduce or control direct impacts on public services, if any.

Not Applicable. Not a project-specific proposal.

## **16. Utilities** [\[help\]](#)

- a. Check utilities currently available at the site:

☐electricity ☐natural gas ☐water ☐refuse service ☐telephone ☐sanitary sewer ☐septic system

Other: Not Applicable. Not a project-specific proposal. Varies throughout Thurston County.

- b. Describe the utilities that are proposed for the project, the utility providing the service, and the general construction activities on the site or in the immediate vicinity which might be needed.

Not Applicable. Not a project-specific proposal.

## **C. Signature** [\[HELP\]](#)

The above answers are true and complete to the best of my knowledge. I understand that the lead agency is relying on them to make its decision.

Signature: *Andrew Boughan*

Name of signee: Andrew Boughan

Position and Agency/Organization: Strategic Operations Coordinator,  
Community Planning & Economic Development

Date Submitted: 12 / 24 / 2024

## **D. Supplemental sheet for nonproject actions** [\[HELP\]](#)

**(IT IS NOT NECESSARY to use this sheet for project actions)**

Because these questions are very general, it may be helpful to read them in conjunction with the list of the elements of the environment.

When answering these questions, be aware of the extent the proposal, or the types of activities likely to result from the proposal, would affect the item at a greater intensity or at a faster rate than if the proposal were not implemented. Respond briefly and in general terms.

1. How would the proposal be likely to increase discharge to water; emissions to air; production, storage, or release of toxic or hazardous substances; or production of noise?

The proposed amendments are unlikely to increase discharge to water, production of noise, or hazardous substances. Changes to the County-Wide Planning Policies (CWPP) focus on regional policies designed to enhance coordination with tribal partners and establish clear regional expectations for Urban Growth Area (UGA) land swaps.

Proposed measures to avoid or reduce such increases are:

Best Management Practices (BMPs) are necessary for any construction and handling of hazardous materials. Development plans and permits are required, and any project-specific application must comply with all Thurston County regulations, including critical areas ordinance and State Environmental Policy Act.

2. How would the proposal be likely to affect plants, animals, fish, or marine life?

The proposal focuses on regional policies designed to enhance coordination with tribal partners and establish clear regional expectations for Urban Growth Area (UGA) land swaps. The proposal is unlikely to affect plants, animals, fish, or marine life. There is the potential for direct impact on plants and animals with future development. However, development is subject to regulations and will be reviewed at time of permitting.

Proposed measures to protect or conserve plants, animals, fish, or marine life are:

There are no proposed measures included within this proposal. The existing requirements in Thurston County Code, including critical areas ordinance, and the State Environmental Policy Act will provide adequate protections.

3. How would the proposal be likely to deplete energy or natural resources?

The proposal is unlikely to deplete energy or natural resources. Additional energy use may be associated with new development.

Proposed measures to protect or conserve energy and natural resources are:

There are no proposed measures included within this proposal. The existing requirements in Thurston County Code, including critical area ordinance, and the State Environmental Policy Act will provide adequate protections.

4. How would the proposal be likely to use or affect environmentally sensitive areas or areas designated (or eligible or under study) for governmental protection; such as parks, wilderness, wild and scenic rivers, threatened or endangered species habitat, historic or cultural sites, wetlands, floodplains, or prime

farmlands?

The proposed amendments are unlikely to result in impacts to environmentally sensitive areas, parks, threatened or endangered species, cultural sites, wetlands, floodplains, or farmlands.

Proposed measures to protect such resources or to avoid or reduce impacts are:

There are no proposed measures included within this proposal. Future development must comply with Best Management Practices (BMP), Comprehensive Plan, and Thurston County Code (TCC).

5. How would the proposal be likely to affect land and shoreline use, including whether it would allow or encourage land or shoreline uses incompatible with existing plans?

The proposed policies on UGA Land Swaps will provide clear guidance for applicants and jurisdictions within Thurston County, outlining expectations for applications. The tribal coordination element is unlikely to have any impact. Both proposals are not expected to significantly affect land or shoreline use.

Proposed measures to avoid or reduce shoreline and land use impacts are:

There are no proposed measures included within this proposal. Thurston County Comprehensive Plan and any project-specific applications must comply with all Thurston County regulations, including critical areas ordinances and the State Environmental Policy Act.

6. How would the proposal be likely to increase demands on transportation or public services and utilities?

The proposed amendments are unlikely to increase traffic or demand on utilities. As policy changes, the updates to the CWPP will primarily inform future applications without directly impacting transportation or public services.

Proposed measures to reduce or respond to such demand(s) are:

There are no proposed measures included within this proposal. The existing requirements in Thurston County Code, including critical area ordinance, and the State Environmental Policy Act will provide adequate protections.

7. Identify, if possible, whether the proposal may conflict with local, state, or federal laws or requirements for the protection of the environment.

No conflicts have been identified. The County-Wide Planning Policies are mandated by the Growth Management Act.

# **Exhibit B**

Project No. 2024105328, SEPA Folder No. XA 24-116030



---

**From:** David Toyer <david@toyerstrategic.com>  
**Sent:** Monday, August 5, 2024 12:04 PM  
**To:** dailym@trpc.org; osterberga@trpc.org; Ashley Arai; Vanessa Dolbee; tsmith@ci.olympia.wa.us; j.e.gibsonconsulting@gmail.com; MMatlock@ci.tumwater.wa.us; dan.penrose@scjalliance.com; GaryC@yelmwa.gov; emily.clouse@co.thurston.wa.us; gary.edwards@co.thurston.wa.us; tye.menser@co.thurston.wa.us; Wayne Fournier; carolina.mejia@co.thurston.wa.us; Malcolm Miller; dmadrone@ci.olympia.wa.us; council5@fairpoint.net; citycouncil3@ci.tenino.wa.us; eswarthout@ci.tumwater.wa.us; joed@ci.yelm.wa.us  
**Cc:** Mike Brewer; Rob Rice; 'Chris Carlson'; travis.burns@co.thurston.wa.us; Heather Burgess; Ana Rodriguez; info@trpc.org  
**Subject:** UGM Subcommittee - County-Wide Planning Policies for UGA Swaps  
**Attachments:** TRPC Letter - Bar Holdings re CWPPs.pdf

Some people who received this message don't often get email from david@toyerstrategic.com. [Learn why this is important](#)

**Caution:** This is an external email. Please take care when clicking links or opening attachments. When in doubt, contact the IS Department

Good afternoon.

Attached please find a letter on behalf of our client, BAR Holdings, LLC., regarding the UGM Subcommittee's upcoming August 19<sup>th</sup> meeting and policies for UGA Swaps.

Thank you!

DAVID K. TOYER, PRESIDENT  
**TOYER STRATEGIC ADVISORS, INC.**  
3705 COLBY AVE, STE 1, EVERETT, WA 98201  
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[toyerstrategic.com](http://toyerstrategic.com)

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# **Exhibit C**

Project No. 2024105328, SEPA Folder No. XA 24-116030



August 5, 2024

Marc Daily, Executive Director  
Allison Osterberg, Planning Manager  
Thurston Regional Planning Council  
2411 Chandler Court SW  
Olympia, WA 98502

### UGM Subcommittee – County-Wide Planning Policies for UGA Swaps

Dear Marc and Allison:

Our firm represents BAR Holdings, LLC., which is an applicant for a UGA swap in Thurston County. The proposal was affirmatively placed by the Board of County Commissioners on the 2024-2025 official docket (CPA-1) as the fourth priority project out of ten docketed items. The County is actively processing the application along with the 2025 Comprehensive Plan Update.

In December 2023, a members of BAR Holdings' consultant team (*Chis Carlson with Hatton Godot Pantier*) attended the UGM Subcommittee meeting to provide public input on "Draft" County-Wide Planning Policy (CWPP) 2.6 that was proposed to address the Legislature's establishment of a process for UGA 'swaps' in RCW 36.70A.130(3)(c)(i) - (viii)<sup>1</sup> that may only be considered during a county's periodic comprehensive plan update.

To that end, the TRPC staff report from December 20<sup>th</sup> made clear that a new Countywide Planning Policy was needed to maintain consistency between the CWPPs and state law:

*"Currently, the Countywide Planning Policies only allow for UGA boundary adjustments that expand or reduce the Urban Growth Boundary, not adjustments that change the boundary, but keep the total area the same. In October, Planning Directors proposed adding a new policy to the CWPPs to maintain consistency with the revised state law." Staff Report at page 3*

At the December 20<sup>th</sup> meeting, the UGM Subcommittee agreed with the BAR Holdings' representative that the draft language for Policy 2.6 (below) needed to be refined as the highlighted portion would seemingly only support swaps that involved precisely the amount of land added as removed, which is not part of the statutory criteria:

*Policy 2.6: Revision of the Urban Growth Boundary that is **neither an expansion nor a reduction** must demonstrate consistency with the requirements of RCW 36.70A130(3)(c) and consistency with these County-Wide Planning Policies.*

The matter was deferred to a future UGM Subcommittee meeting, which BAR Holdings understood would be in the February 2024 timeframe.

Subsequently, during the 2024 Legislative Session, the Legislature adopted Substitute Senate Bill 5834, which also addresses UGA swaps. This new legislation, codified in RCW 36.70A.110(8), established criteria by which UGA swaps could be considered during annual reviews of comprehensive plan amendments. The criteria for swaps considered during an annual amendment cycle (in .110) differ from those used for review of swaps proposed during periodic updates (in .130), intimating that the County needs to adopt two CWPPs for each situation to be consistent with state law.

It has come to our attention discussion of new UGA swap policies was not added to the UGM Subcommittee's August 19<sup>th</sup> agenda due to concerns about their being a difference between the two types of swaps and/or that there is not sufficient time for the UGM Subcommittee (or its Technical Advisory Committee) to craft and consider policy language to account for

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<sup>1</sup> Engrossed Substitute Senate Bill (ESSB) 5593 [2022]

both laws.

We disagree. First, as the original December 20<sup>th</sup> TRPC staff report indicated, the County has a duty to adopt Countywide Planning Policies that are consistent with state law. Thus, as state law changes, so must the Countywide Planning Policies. Historically, it has been the practice of most counties within Washington that plan under GMA (including Thurston County) to review and revise as necessary the CWPPs in advance of periodic updates to ensure the chain of consistency created with GMA is maintained – that comprehensive plans and development regulations are consistent with CWPPs and CWPPs are consistent with state law. Failure to fully update the CWPPs to be consistent with state law is problematic for establishing this fundamental requirement for consistency. Second, we note that the 2024 UGA swap legislation established the annual process criteria in RCW 36.70A.110 and RCW 36.70A.210(3)(b) specifically and directly mandates that the County's CWPPs have policies to implement .110.

In sum, we believe it is the duty of the UGM Subcommittee and the County Board of County Commissioners to process amendments to make the County's CWPPs consistent with state law.

We recognize that there may be opponents to BAR Holdings' proposed UGA swap. That said, the BAR Holdings proposal is not presently before the UGM Subcommittee. What is needed at this time is for the UGM Subcommittee to adopt policies to be consistent with state law that allows UGA swap proposals to be considered. Separately and distinctly, the UGM Subcommittee will (in its future capacity under the CWPPs) review the BAR Holdings proposal or any other proposed UGA swap according to the review criteria established by the Legislature depending upon whether the proposal is brought forward as an annual amendment or concurrently with a periodic update.

We recognize that planning departments are busy with 2025 periodic updates. To expedite consideration and action, we offer the following draft UGA swap policies, and respectfully request that the UGM Subcommittee consider them at the August 19<sup>th</sup> meeting and forward them to the Board of County Commissioners for approval:

**Policy 2.5: Revision to an Urban Growth Boundary considered during a periodic update as established by RCW 36.70A.130(5)(b) proposing to swap land inside an urban growth boundary for land outside an urban growth boundary, must demonstrate consistency with the requirements of 36.70A.130(3)(c) and these County-Wide Planning Policies.**

**Policy 2.6: Revision to an Urban Growth Boundary considered as part of the County's annual review in accordance with RCW 36.70A.130(2)(a) proposing to swap land inside an urban growth boundary for land outside an urban growth boundary, must demonstrate consistency with the requirements of RCW 36.70A.110(8) and these County-Wide Planning Policies.**

We appreciate your prompt consideration of our concerns.

Should you have any questions, or require clarifications or additional information, please do not hesitate to contact me at 425-322-5226 or [david@toyerstrategic.com](mailto:david@toyerstrategic.com).

Sincerely,



David Toyer  
President

CC:

Thurston County Board of County Commissioners  
TRPC UGM Subcommittee  
Ashley Arai, Interim CPED Director, Thurston County  
Vanessa Dolbee, Community Economic Development Director, City of Lacey  
Tim Smith, Interim Director, Community Planning and Development, City of Olympia  
Jim Gibson, City Planner, City of Rainier

Dan Penrose, SCJ Alliance, City Planner, City of Tenino  
Mike Matlock, Community Development Director, City of Tumwater  
Gary Cooper, Planning & Building Manager, City of Yelm  
Travis Burns, Thurston County Prosecuting Attorney's Office  
Heather Burgess, Dickson Frohlich Phillips Burgess PLLC, Counsel for BAR Holdings, Inc.

# **Exhibit D**

Project No. 2024105328, SEPA Folder No. XA 24-116030

➤ **Add new Policy 2.6**

2.6 Revision of the Urban Growth Boundary proposing to swap land inside an urban growth boundary for land outside an urban growth boundary must demonstrate consistency with the following criteria:

- a. The county or a city or town has determined that patterns of development have created pressure for development in areas that exceed the amount of available developable lands within the Urban Growth Area, through any of the following means:
  - i. The review and evaluation program referenced in CWPP 11.1 ("Buildable Lands Program"), and either a joint plan or subarea plan adopted by the affected city or town and county, as described in Section IV; or
  - ii. Other analysis approved jointly by affected jurisdictions as reflected in the interlocal agreement and consistent with state guidance.
- b. Sufficient land will remain within the revised Urban Growth Boundary to permit the urban growth that is forecast to occur in the succeeding 20 years.
- c. The revised boundary will provide for cost-effective sewer and water and transportation service areas, as applicable for each urban growth area, including:
  - i. For South County jurisdictions: the area proposed to be added to the urban growth boundary can and will be served by municipal water and transportation in the succeeding 20 years. South County jurisdictions must demonstrate that the expansion can be served by sewage disposal measures that provide for the effective treatment of wastewater in the succeeding 20 years.
  - ii. For North County jurisdictions: the area proposed to be added to the urban growth boundary can and will be served by municipal sewer, water, and transportation in the succeeding 20 years.
- d. Revisions considered during a periodic update as established by RCW 36.70A.130(5)(b) must demonstrate consistency with the requirements of 36.70A.130(3)(c) and these County-Wide Planning Policies.
- e. Revisions considered as part of the county's annual review of Comprehensive Plan amendments under 36.70A.130(2)(a) must demonstrate consistency with RCW 36.70A.110(8) and these County-Wide Planning Policies.

# **Exhibit E**

Project No. 2024105328, SEPA Folder No. XA 24-116030





## COMMUNITY PLANNING & ECONOMIC DEVELOPMENT

3000 Pacific Ave SE, Olympia, WA 98501

TTY/TDD call 711 or 1-800-833-6388

Website: [ThurstonCPED.org](http://ThurstonCPED.org)

Creating Solutions for Our Future

Ashley Arai, Interim Director

October 21<sup>st</sup>, 2024

**To:** Ana Rodriguez, Associate Planner  
Andrew Boughan, Senior Planner and Interim Operations Manager

**Cc:** Ashley Arai, Director  
Andrew Deffobis, Community Planning Manager

**From:** Kevin Hansen, LHg., LG, LEED AP, County Hydrogeologist\

**Subject:** Hydro review of the proposed BAR Holdings UGA Swap, Land Use Amendment, and Rezoning

Ana and Andrew:

I have reviewed the major hydrologic elements of the proposed BAR Holdings proposal. The proposal is divided into two parcel groups as depicted on Figure 1, and the review is in two parts:

- Part 1: The part of the proposal adjacent to the Deschutes River (see Figure 2).
- Part 2: The part near Black Lake that involve a reduction in density (see Figure 3).

### **PART I: PARCELS ADJACENT TO THE DESCHUTES RIVER (SEE FIGURE 1)**

#### **Water Supply**

Two of the three proposed parcels overlap water system service areas:

1. Parcel 11719220101 is partially within the Tumwater water system service area – but does not appear to be connected to the system.
2. Parcel 11719210100 does not have a reported well or water right.
3. Parcel 11719240302 is approximately coincident with the AGB Resources water system service area. The system has Washington Department of Health water system ID AB946G. This system is served not by the surface water right but by a 75-foot-deep permit-exempt well with WA Ecology ID# ALP356. Sampling reported in the DOH Sentry database did not identify any exceedances of DOH criteria.

#### **Wastewater**

Onsite septic systems (OSS) provide wastewater service nearby. However, due to the proposed density and commercial use immediately adjacent to the Deschutes River, onsite septic is not recommended for future development.

Note on Figure 2 that City of Tumwater sewer may be available within approximately one mile northwest of the proposed parcels, depending on a review of pipe/system capacity, waste strength, etc.

Also, documented groundwater quality problems northwest of these parcels on similar soils (Figure 1) – and likely associated with OSS/septic for wastewater management; I urge caution that septic design is inappropriate in this area.

### **Stormwater**

Stormwater management very close to the Deschutes River would have significant issues to overcome from extensive impervious surfaces – probably requiring both quantity and quality controls to meet Drainage Design and Erosion Control Manual (DDCEM) requirements.

### **Critical Aquifer Recharge Areas**

These proposed parcels are entirely designated as Type I CARAs. Groundwater recharge timing would probably change, depending on the stormwater management technology chosen, possibly negatively impacting streamflow in the adjacent Deschutes River.

Additionally, several important documented springs emerge nearby to feed baseflow in the Deschutes River (see Figure 1). Depending on the springs' capture areas, the flow to these springs has the potential to short-circuit (accelerate) the movement into the river any contaminants in stormwater, leaks, and spills.

Apart from springs' flow, the higher permeability CARA Type I soils, and the proximity and short travel time to the Deschutes River increase risks: there is a potential for stormwater-related contaminants, leaks or spills to enter the river. Additionally, the development area proposed is too small and too close to the river to effectively monitor – preventing timely detection and obviating the effectiveness of any remedy.

In short, the risks from contamination reaching the Deschutes River from this site are elevated.

### **Water Rights**

There is one potentially valid water right on the southernmost parcel (Parcel 11719240302), issued to Clarence Canfield, with a priority date of 21-Sept-1970. Water right certificate S2-00434CWRIS for surface water withdrawal from a spring-fed pond at 0.005 cfs and domestic use totaling 1 acre-foot per year may still be valid. However, it is a very small water right, and the current approved use for stock watering and domestic makes conversion to more intensive water consumption unlikely. Extensive mitigation and required new permit are more likely.

However, retirement of this older water right permit might credit towards the Streamflow Restoration Act requirements in RCW 90.94.

### **Streamflow**

The Deschutes River near these parcels frequently fails to meet Minimum Instream Flows (Chapter 173-513 WAC). Both DDECM stormwater management requirements and any future onsite groundwater supply pumping would possibly further reduce Deschutes River discharges that are often lower than WAC Minimum Instream Flows.

### **Critical Aquifer Recharge Areas**

Groundwater recharge timing would probably change, depending on the stormwater management technology chosen, possibly negatively impacting streamflow in the adjacent Deschutes River.

Additionally, several important documented springs emerge nearby to feed baseflow in the Deschutes River (see Figure 2). Depending on the springs' capture areas, the flow to these springs has the potential to short-circuit (accelerate) the movement into the river any contaminants in stormwater, leaks, and spills.

Apart from springs' flow, the higher permeability CARA Type I soils, and the proximity and short travel time to the Deschutes River increase risks: there is a potential for stormwater-related contaminants, leaks or spills to enter the river. Additionally, the development area proposed is too small and too close to the river to effectively monitor – preventing timely detection and obviating the effectiveness of any remedy.

In short, the risks from contamination reaching the Deschutes River from this site are elevated.

### **Selection of this Specific Area**

It is likely that a developer would encounter additional costs and delays addressing the issues noted above.

Sewer service is a *de facto* encouragement of land development. Many developable parcels south of the BAR Holdings' proposed site along Old Hwy 99 are also very close to the river and would be subject to similar questions about water supply limits, stormwater design limitations/costs, leaks/spills and streamflow reductions. Nearby sewer would potentially encourage further growth along Old Hwy 99.

The multiple hydrologic liabilities noted herein suggest that other locations further from the Deschutes River and closer to existing water/wastewater utility service might be superior development alternatives.

## **PART 2: BLACK LAKE PARCELS PROPOSED TO LEAVE THE UGA (SEE FIGURE 3)**

### **Factors that May Reduce Density**

Significant obstructions make development of the parcels near Black Lake potentially less dense and more costly:

- 1) The large wetlands complex exiting Black Lake reduces buildable areas for multiple parcels east of Black Lake Boulevard.
- 2) The steep slopes and mapped landslide risk on the parcels west of Black Lake Boulevard would probably require geotechnical assessments. Limitations on building size/type may occur; construction costs will likely be higher.
- 3) A sizable utility corridor appears to cross multiple parcels, with likely restrictions on the types of allowable construction within that easement.
- 4) There is no sewer main west of Black Lake Boulevard likely to service the parcel group near Black Lake. Therefore, OSS systems are likely and soil slopes and low permeability further reduce likely development density.
- 5) FEMA Floodways encumber the parcels near Black Lake Ditch.

## Water Rights

Department of Ecology records indicate that at least four water rights are either on or very near the Black Lake parcel group:

Record / Document No.	Person or Organization	Priority Date	Status	Instantaneous Maximum Withdrawal Allowed (Qi)	Annual Total Withdrawal Allowed (Qa, acre-feet)
S2-23112CWRIS	Gunstone, R Dale	05/20/1974	Active	0.02 CFS	0.5000
S2-*03438CWRIS	Inman, C R	04/30/1941	Active	0.01 CFS	
G2-22867CWRIS	Christopher Co	07/01/1974	Active	10 GPM	1.0000
G2-28059	Mills, Gary	03/06/1991	Active	50 GPM	20.0000

Water rights notes: S2 - surface water diversion  
G2 - groundwater withdrawal  
CFS - cubic feet per second  
GPM - gallons per minute (groundwater)

Identifying whether these rights are still valid, for which Qa/Qi quantities, and whether they are actually on the subject parcels would require additional investigations.

## Water Supply

Like the parcel group near the Deschutes River, the Black Lake parcel group are fully or partially within the City of Tumwater water system service area.

## Wastewater

As noted above, there is no sewer main west of Black Lake Boulevard likely to service the parcel group near Black Lake. Therefore, OSS systems are likely for wastewater service – and are likely to limit development density unless Large Onsite Septic Systems (LOSS) were employed. Soil imperviousness and shallow bedrock and shallow groundwater may affect OSS/LOSS designs (note adjacent rock quarry).

## Stormwater

Given the encumbrances to development such as steep slopes, large wetlands and a large utility corridor, stormwater management may be challenging for the Black Lake parcel group, if developed.

However, because of the probable lower development density, the Black Lake parcel group would generate less problematic stormwater quality.

## Streamflow

Because of the expected low development density and numerous areas with probable development limitations, the Black Lake parcel group would not likely affect streamflow quantity and quality, assuming City of Tumwater water supplies and OSS for wastewater. No mitigation would be needed for permit-exempt groundwater consumption.

## **Critical Aquifer Recharge Areas**

A small part of the Black Lake parcel group is designated as a Type 2 CARA.

## **CONCLUSIONS**

### **Comparison of Probable Changes at the two Groups of Parcels Relative to their Natural Capital Value**

- 1) The parcel group near the Deschutes River is currently proposed for a substantially higher density than is likely to be achievable near Black Lake. As a result:
  - a. The water demand [from the City of Tumwater system] would probably be significantly higher after the UGA swap, caused by demand from the parcel group near the Deschutes River.
  - b. The development density proposed for the parcel group near the Deschutes River is substantially higher than is likely achievable for the parcel group near Black Lake.
  - c. Risks to surface water quality are probably lower for development on the Black Lake parcel group, primarily because of their lower development density, reduced stormwater and OSS wastewater loads, when compared to the Deschutes parcel group.

# **Exhibit F**

Project No. 2024105328, SEPA Folder No. XA 24-116030

# FINAL BILL REPORT

## SSB 5834

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C 26 L 24  
Synopsis as Enacted

**Brief Description:** Concerning urban growth areas.

**Sponsors:** Senate Committee on Local Government, Land Use & Tribal Affairs (originally sponsored by Senators Short, Lovelett, Billig, Gildon, Mullet, Padden and Torres).

**Senate Committee on Local Government, Land Use & Tribal Affairs**  
**House Committee on Local Government**

**Background:** Growth Management Act. The Growth Management Act (GMA) is the comprehensive land use planning framework for counties and cities in Washington. The GMA establishes land use designation and environmental protection requirements for all Washington counties and cities. The GMA also establishes a significantly wider array of planning duties for 28 counties, and the cities within those counties, that are obligated to satisfy all planning requirements of the GMA. These jurisdictions are sometimes said to be fully planning under the GMA.

The GMA directs fully planning jurisdictions to adopt internally consistent comprehensive land use plans. Comprehensive plans are implemented through locally adopted development regulations, and both the plans and the local regulations are subject to review and revision requirements prescribed in the GMA. Comprehensive plans must be reviewed and, if necessary, revised every ten years to ensure it complies with the GMA. When developing their comprehensive plans, counties and cities must consider various goals set forth in statute.

Urban Growth Areas. Counties that fully plan under the GMA must designate Urban Growth Areas (UGAs), within which urban growth must be encouraged and outside of which growth may occur only if it is not urban in nature. UGAs must contain sufficient areas and densities to accommodate projected urban growth for the succeeding 20-year period. Fully planning counties must review the designated UGAs, patterns of development within the UGAs, and the densities permitted within the incorporated and unincorporated portions of each UGA during the regularly scheduled comprehensive review update cycle.

---

*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.*



If, during the jurisdiction's review, the county determines the patterns of development have created pressure in areas that exceed the available and developable lands within the UGA, the county may revise the UGA to accommodate identified patterns of development and future development pressure for the succeeding 20-year period if the revised UGA meets certain criteria, including but not limited to:

- the revised UGA does not result in an increase in the total surface areas of any UGA;
- the areas added to the UGA are not or have not been designated as agricultural, forest, or mineral resource lands of long-term commercial significance; and
- less than 15 percent of the areas added to the UGA are critical areas.

**Summary:** A fully planning county may, as part of its annual review of proposed amendments, updates, or revisions of its comprehensive plan, review its designated UGAs and the patterns of development and densities permitted within each UGA.

If, during the county's regularly scheduled annual review, the county determines the patterns of development have created pressure in areas that exceed the available and developable lands within the UGA, the county may revise the UGA to accommodate identified patterns of development and future development pressure for the succeeding 20-year period if:

- the revised UGA does not result in an increase in the total surface acreage or development capacity of the UGA;
- the areas added to the UGA are not designated as agricultural, forest, or mineral resource lands of long-term commercial significance;
- the areas added to the UGA have previously been designated as agricultural, forest, or mineral resource lands of long-term significance, either:
  1. an equivalent amount of agricultural, forest, or mineral resource lands of long-term commercial significance must be added to the area outside the UGA; or
  2. the county must wait a minimum of two years before another swap may occur;
- less than 15 percent of the areas added to the UGA are critical areas other than critical aquifer recharge areas and the critical aquifer recharge areas must have been previously designated by the county and the revised UGA must not result in a net loss of critical aquifer recharge areas;
- the areas added to the UGA are suitable for urban growth;
- the county's transportation element and capital facility plan element of the county's comprehensive plan have identified the transportation facilities and public facilities and services needed to serve the UGA and the funding to provide the transportation facilities and public facilities and services;
- the areas removed from the UGA are not characterized by urban growth or urban densities;
- the revised UGA is contiguous, does not include holes or gaps, and will not increase pressures to urbanize rural or natural resource lands;
- the county's proposed UGA revision must also be reviewed according to the process and procedures in the countywide planning policies; and



- the revised UGA meets all other statutory requirements.

At the earliest possible date prior to the revision of the county's UGA, the county must engage in meaningful consultation with any federally recognized Indian tribe that may be potentially affected by the proposed revision. Meaningful consultation must include discussion of the potential impacts to cultural resources and tribal treaty rights.

A county must notify the affected federally recognized Indian tribe of the proposed revision using at least two methods, including by mail. Upon receiving notice, the tribe may request a consultation to determine whether an agreement can be reached related to the revision of the UGA. If an agreement is not reached, the parties must enter mediation.

**Votes on Final Passage:**

Senate	49	0
House	96	0

**Effective:** June 6, 2024

# **Exhibit G**

Project No. 2024105328, SEPA Folder No. XA 24-116030

# UGA Land Swapping Law

[RCW 36.70A.130](#)(3)(c); [RCW 36.70A.110](#)(8)

[ESSB 5593](#) (2022), [SSB 5834](#) (2024)

## Bar Holdings' proposal fails the highlighted requirements.

### 2022 Law

#### RCW 36.70A.130(3)(c):

(3)(a) Each county that designates urban growth areas under RCW [36.70A.110](#) shall review, according to the schedules established in subsections (4) and (5) of this section, its designated urban growth area or areas, patterns of development occurring within the urban growth area or areas, and the densities permitted within both the incorporated and unincorporated portions of each urban growth area. In conjunction with this review by the county, each city located within an urban growth area shall review the densities permitted within its boundaries, and the extent to which the urban growth occurring within the county has located within each city and the unincorporated portions of the urban growth areas.

(b) The county comprehensive plan designating urban growth areas, and the densities permitted in the urban growth areas by the comprehensive plans of the county and each city located within the urban growth areas, shall be revised to accommodate the urban growth projected to occur in the county for the succeeding 20-year period. The review required by this subsection may be combined with the review and evaluation required by RCW [36.70A.215](#).

(c) If, during the county's review under (a) of this subsection, the county determines revision of the urban growth area is not required to accommodate the urban growth projected to occur in the county for the succeeding 20-year period, but does determine that **patterns of development have created pressure in areas that exceed available, developable lands** within the urban growth area, the urban growth area or areas may be revised to accommodate identified patterns of development and likely future development pressure for the succeeding 20-year period if the following requirements are met:

(i) The revised urban growth area may not result in an increase in the **total surface areas** of the urban growth area or areas;

...

(viii) The revised urban growth area is contiguous, does not include holes or gaps, and will not **increase pressures to urbanize rural or natural resource lands**.

## 2024 Law

### **RCW 36.70A.110(8)**

(8) If, during the county's annual review under RCW 36.70A.130(2)(a), the county determines revision of the urban growth area is not required to accommodate the population projection for the county made by the office of financial management for the succeeding 20-year period, but does determine that **patterns of development have created pressure for development in areas exceeding the amount of available developable lands** within the urban growth area, then the county may revise the urban growth area or areas based on identified patterns of development and likely future development pressure if the following requirements are met:

(a) The revised urban growth area would not result in **a net increase in** the total acreage or **development capacity** of the urban growth area or areas;

...

(d) Less than 15 percent of the areas added to the urban growth area are critical areas other than critical aquifer recharge areas. Critical aquifer recharge areas must have been previously designated by the county and be maintained per county development regulations within the expanded urban growth area and **the revised urban growth area must not result in a net increase in critical aquifer recharge areas** within the urban growth area;

...

(h) The revised urban growth area is contiguous, does not include holes or gaps, and **will not increase pressures to urbanize rural or natural resource lands**...

# **Exhibit H**

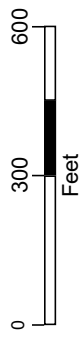
Project No. 2024105328, SEPA Folder No. XA 24-116030

# Swap-In Parcel on 93rd Is All CARA I

## Legend

- Critical Aquifer Recharge Areas
  - 1
  - 2
  - 3
- Parcel Boundaries
- Roads - Major (Large Scale)
- Roads (Large Scale)
- Railroads
- County Border
- <all other values>
- I 5 ACCESS; US 101
- ACCESS; US 101 SB OFF RAMP
- I 5; US 101

Scale 1: 6,774



Map Created Using GeoData Public Website

Published: 1/14/2025

Note:



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# **Exhibit I**

Project No. 2024105328, SEPA Folder No. XA 24-116030

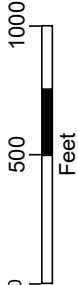


# Swap Out Parcels at Black Lake Are CARA III

## Legend

- Critical Aquifer Recharge Areas
  - 1
  - 2
  - 3
- Parcel Boundaries
- Roads - Major
  - Major Roads
  - Ramp
  - I 5; US 101
- Roads (Large Scale)
- Railroads
- County Border

Scale 1: 13,055



Map Created Using GeoData Public Website

Published: 1/14/2025

Note:



Thurston County  
GeoData Center

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# **Exhibit J**

Project No. 2024105328, SEPA Folder No. XA 24-116030



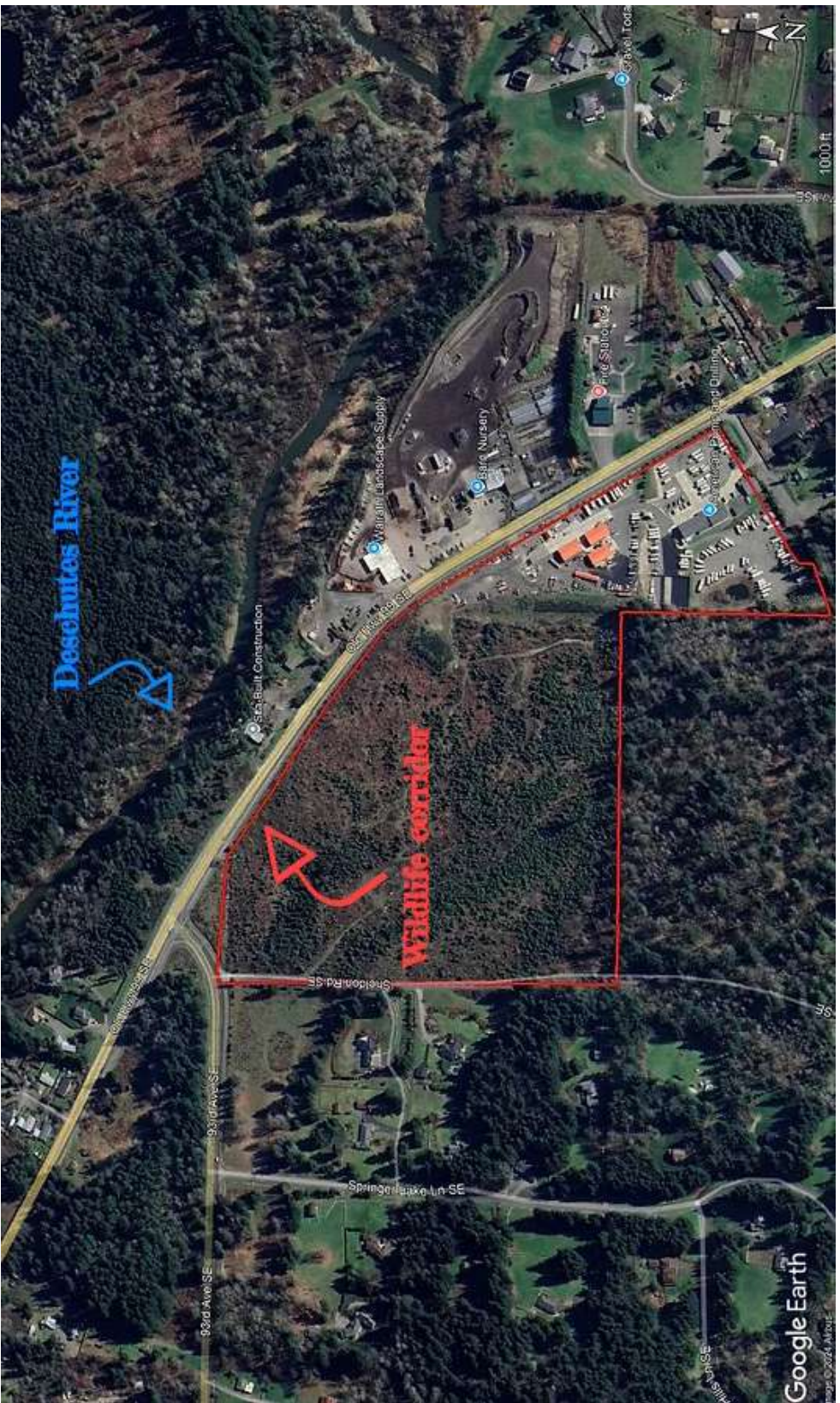
Northeastern facing view of  
BAR Holdings from eagles nest platform





# **Exhibit K**

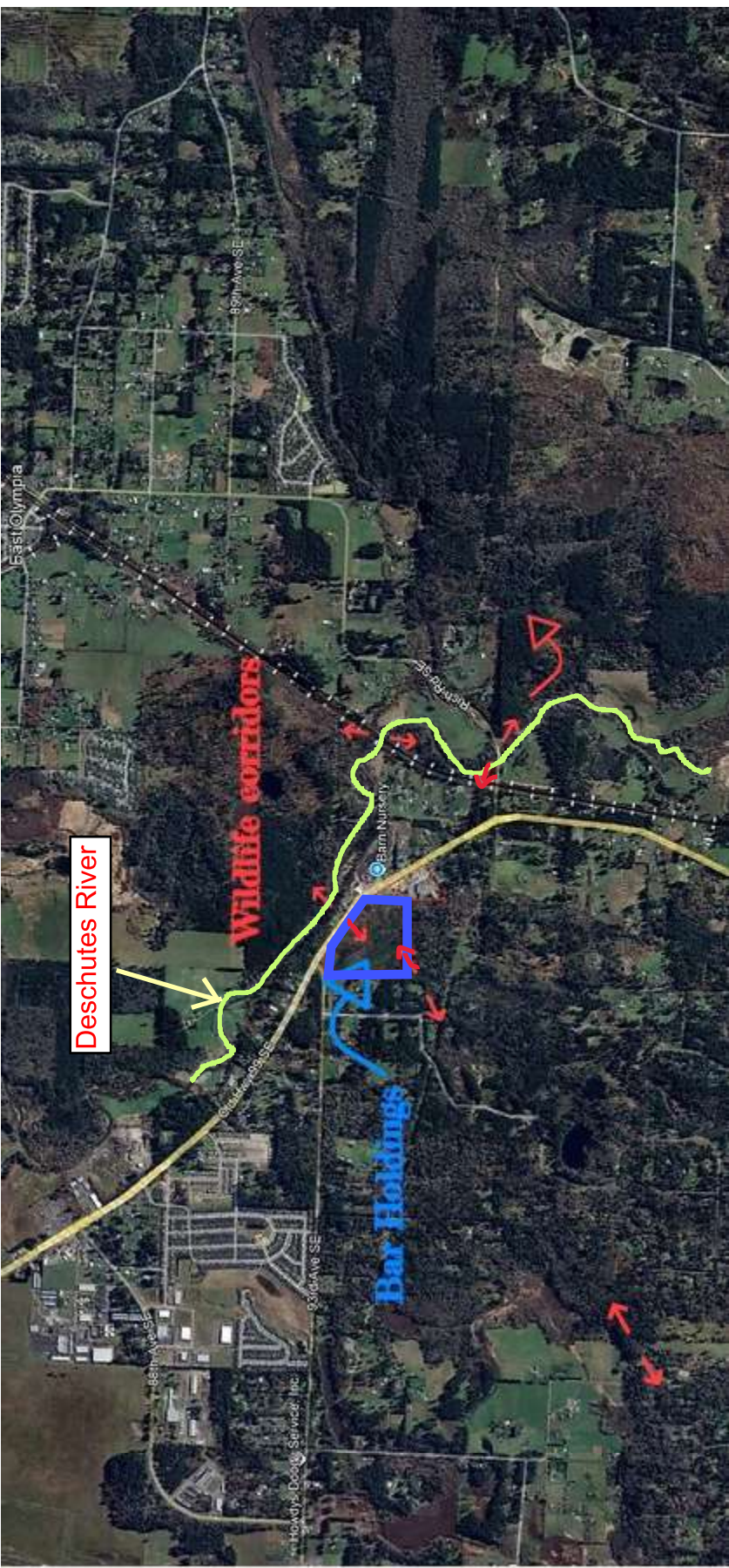
Project No. 2024105328, SEPA Folder No. XA 24-116030



# **Exhibit L**

Project No. 2024105328, SEPA Folder No. XA 24-116030

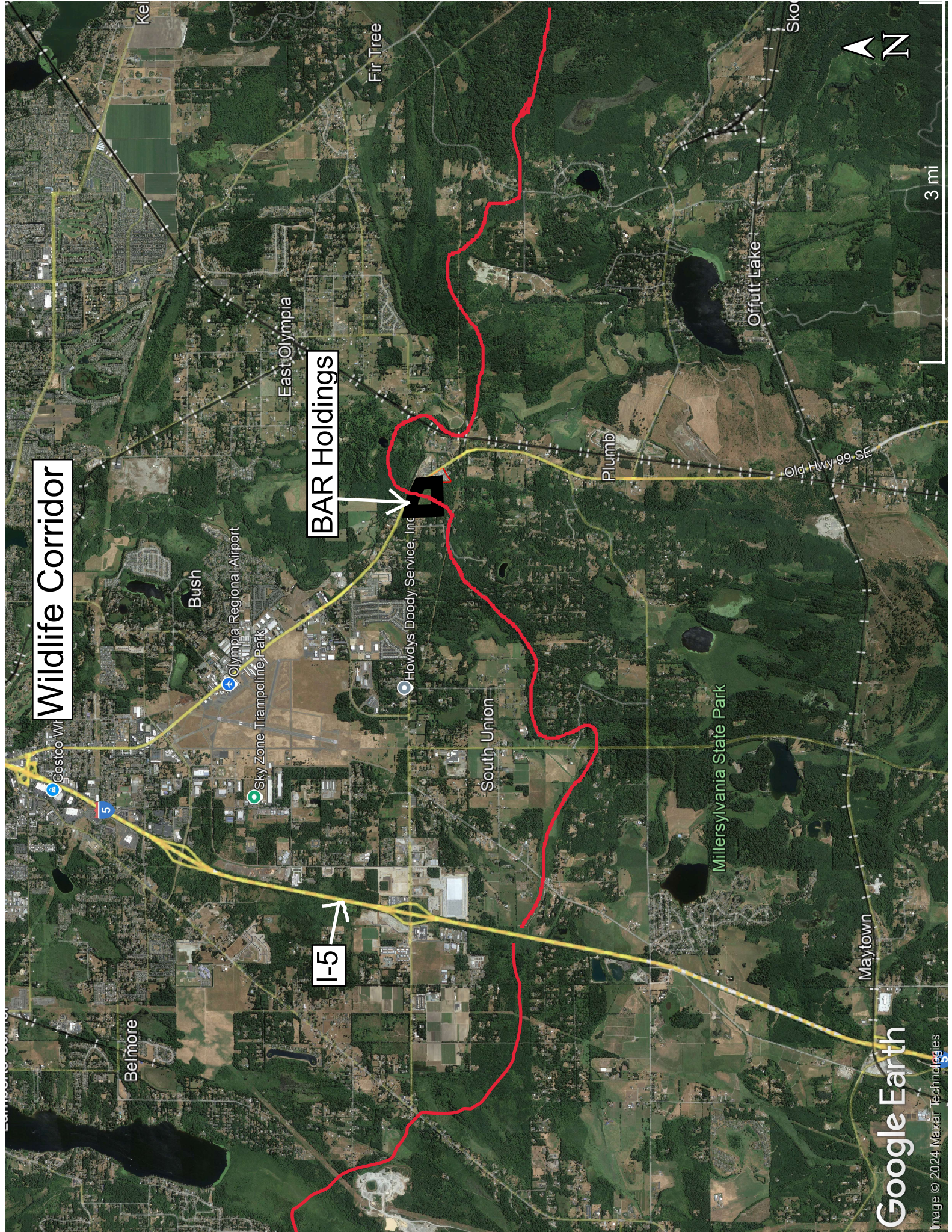




# Exhibit M

Project No. 2024105328, SEPA Folder No. XA 24-116030





Wildlife Corridor

BAR Holdings

I-5

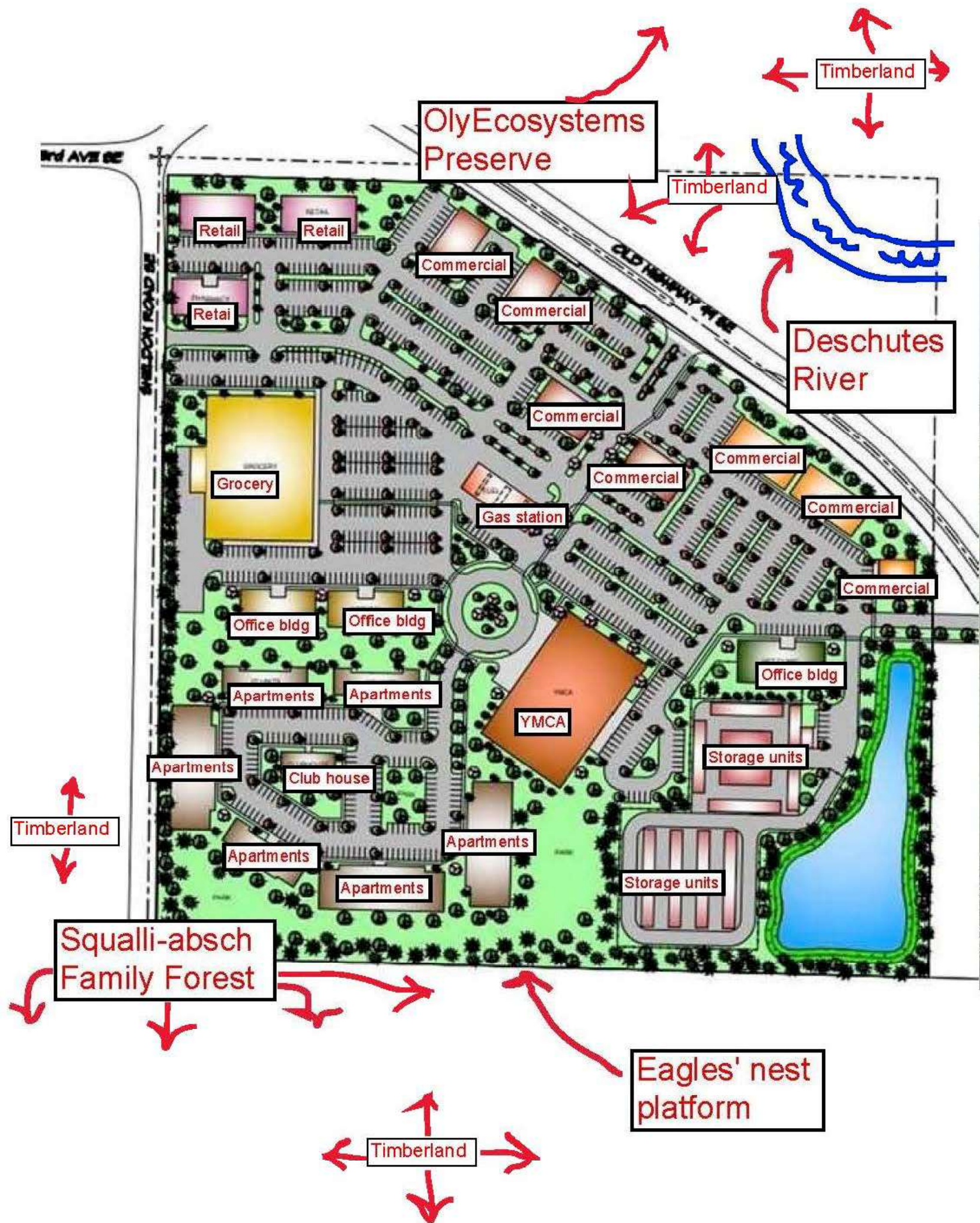
Google Earth

Image © 2024 Maxar Technologies



# **Exhibit N**

Project No. 2024105328, SEPA Folder No. XA 24-116030



# Exhibit O

Project No. 2024105328, SEPA Folder No. XA 24-116030

## Bar Holdings' Critical Areas Consultant's Report re. Swap Out Parcels

Per RCW 36.70A.130(3)(c) during this review, the County determines patterns of development have created pressure in areas that exceed available, developable lands within the UGA, the UGA may be revised to accommodate patterns of development and likely future development pressure for the succeeding 20-year period if the following requirements are met:

- i. The revised urban growth area may not result in an increase in the total surface areas of the urban growth area or areas;*

No increase in the total surface area of the UGA would occur. The revised UGA boundary would decrease the total surface area of the UGA by approximately 19 acres.

- ii. The areas added to the urban growth area are not or have not been designated as agricultural, forest, or mineral resource lands of long-term commercial significance;*

No designated agricultural, forest, or mineral resource lands of long-term commercial significance are identified within the Exchange Area.

- iii. Less than 15 percent of the areas added to the urban growth area are critical areas;*

No critical areas are identified within the Exchange Area.

- iv. The areas added to the urban growth areas are suitable for urban growth;*

Based on a desktop assessment of existing conditions within the Exchange Area, the Exchange Area is suitable for urban growth. The entirety of the Exchange Area has been disturbed by either logging or commercial development. Furthermore, no critical areas are documented within the Exchange Area, and such areas in the vicinity of the Exchange Area are separated by Old Highway 99. Other factors that contribute to the suitability of the Exchange Area for urban growth include proximity to airports and major highways, and proximity to existing utility tie-ins.

In contrast, the Adjustment Area is not suitable for urban growth. Most of the Adjustment Area is encumbered with critical areas and steep slopes that preclude development, and a large portion of the Adjustment Area consists of a power line corridor/easement that also precludes development. Furthermore, the Adjustment Area is situated further from existing transportation facilities and utility tie-ins and would require greater expense to develop and maintain.



The remaining provisions under RCW 36.70A.130(3)(c)(v-viii) will be addressed under separate cover.

### Conclusions

Based on the desktop assessment of existing conditions within the Adjustment Area and the Exchange Area, the Adjustment Area proposed to be removed from the existing UGA boundary is not suitable for development at urban densities. The Adjustment Area is nearly totally constrained due to the encumbrance of critical areas, steep slopes, and protected easements that preclude urban-level development within its boundaries. In addition, a lack of proximity to transportation facilities and utility tie-ins further limit suitability for urban development within the Adjustment Area. In contrast, the Exchange Area is not encumbered by critical areas, located along Old Highway 99 SE in proximity to the Olympia Airport, and located in proximity to existing utility tie ins. Furthermore, the Exchange



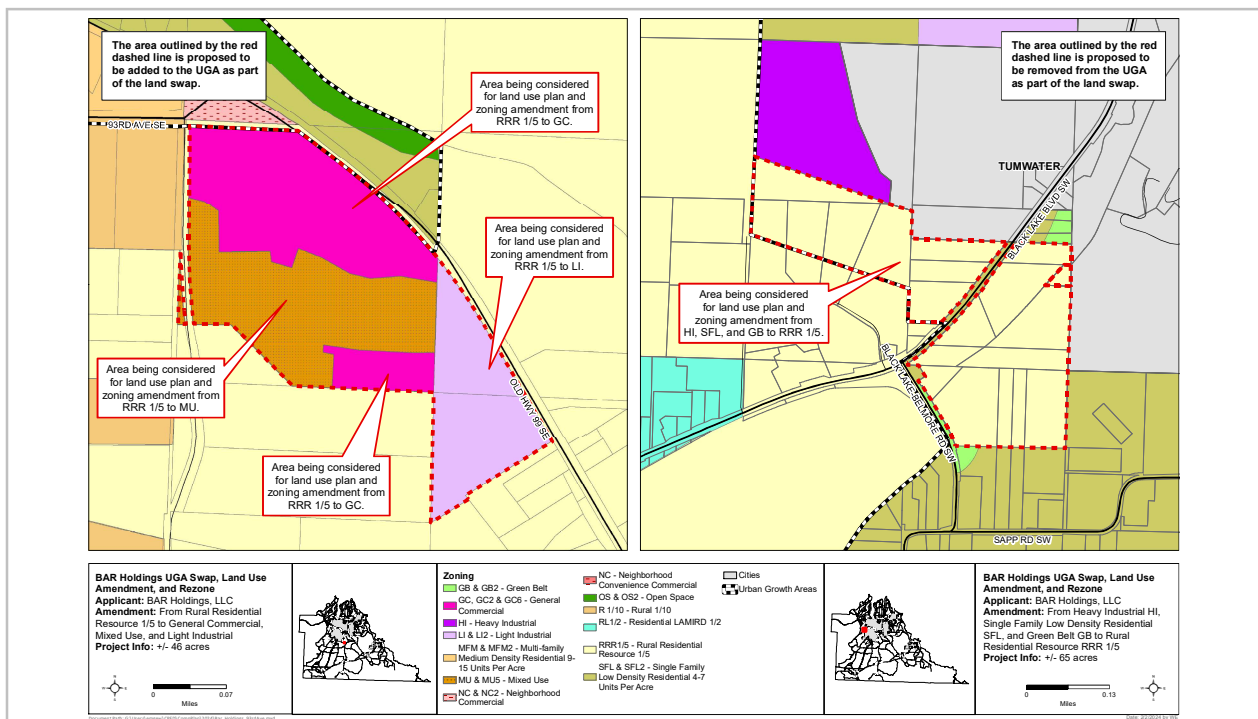
# **Exhibit P**

Project No. 2024105328, SEPA Folder No. XA 24-116030

Last Updated: Feb 7, 2024

## OFFICIAL DOCKET ITEM BRIEFING SHEET

<b>Applicant</b>	BAR Holdings, LLC.
<b>Request</b>	Amend and adjust Tumwater Urban Growth Area (UGA) to remove 18 parcels located within UGA in order to bring in 3 parcels currently located outside UGA as permitted by RCW 36.70A.130. Areas being removed from UGA will be rezoned from Single Family Residential (SFL), Heavy Industrial (HI), and Green Belt (GB) zoning to Rural Residential/Resource 1/5 (RRR 1/5) and Rural Resource Industrial (RRI). Areas being added to UGA will be rezoned from RRR 1/5 to General Commercial (GC), Mixed Use (MU), and Light Industrial (LI). <span style="float: right;">+</span>
<b>Typo</b>	
<b>Location</b>	Added: 9601 and 9445 Old Hwy 99 SE; Removed: Black Lake Blvd SW and Sapp Rd SW
<b>APN</b>	3 parcels added; 18 parcels removed
<b>Acres</b>	+/- 65 acres removed; +/- 46 acres added
<b>Date received</b>	Original application: November 2021; Revised application: December, 2023
<b>Previous BoCC Action</b>	Placed on official docket in 2022 based and prioritized as 8 of 9 Comprehensive Plan Amendments. Since then, new statute (ESSB 5593) passed allowing UGA Swaps with periodic review. The applicant re-submitted their materials in order to utilize a UGA swap and be considered for docketing in the 2024-2025 cycle.
<b>Key stakeholders</b>	Community Members, Industry, Environment, Realtors, City of Tumwater



Check all that apply:

Type of Request

- ☒ Comprehensive Plan Amendment
- ☒ Map ☒ Text
- ☐ Development Code Amendment
- ☐ Legally Required

Who Initiated Request:

- ☒ Citizen-Initiated
- ☐ City-Initiated
- ☐ Board-Initiated
- ☐ Staff-Initiated

Last Updated:

**DOCKET ANALYSIS**

*This side of the paper is maintained by assigned staff planner and presented at Board work session after public comment, for their consideration as they set the official docket.*

Staff resource need: ☒ High (.5 FTE +) ☐ Medium (.5 - .25 FTE) ☐ Low (.25 FTE or less)

Public Interest: ☒ High ☐ Medium ☐ Low/unknown

**Summary of written public comment:**

2022 docketing: 19 comments received. Comment themes: need for retail; recent joint plan update; Buildable Lands Report  
2023 Docketing: 257 comments received. Comment themes: specifics about the conceptual plan, UGA expansion, traffic concerns, and impact on rural character.

**Staff analysis:**

Project includes a request to bring applicants' properties into Tumwater UGA and remove properties from UGA near North Black Lake. This is allowed by RCW 36.70A.130(3)(c) as part of the 10-year Comprehensive Plan periodic update. UGA amendments and adjustments require review with UGM Subcommittee, which adds staff time beyond typical land use amendment.

**Estimated time line:****(ONLY FOR PREVIOUSLY OFFICIALLY DOCKETED ITEMS)**

A UGA Swap proposal will require review by UGM subcommittee before BoCC review. Dependent upon staffing and BoCC priorities, expected completion Q4 2025 with periodic update.

**Board Direction:**

- ☐ Add to 2024-2025 Official Docket
- ☐ Maintain on 2024 Preliminary Docket
- ☐ Remove from Preliminary Docket

*Board Direction is not provided until after 20-day written comment period.*

*Because this is a new docket year, all items are reconsidered.*

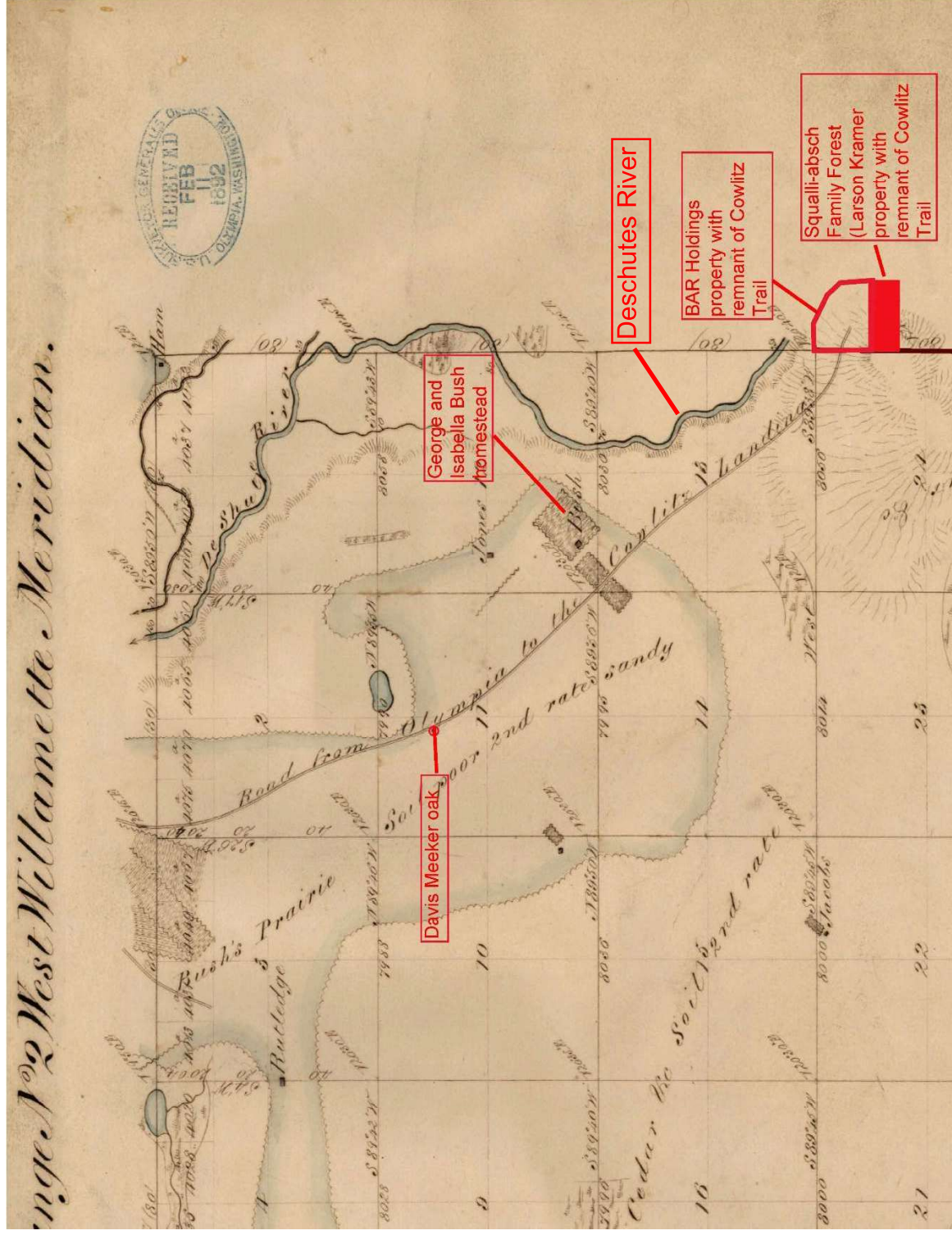
**ASSIGNED PLANNER:** Ana Rodriguez, Associate Planner

# Exhibit Q

Project No. 2024105328, SEPA Folder No. XA 24-116030



# 1854 Survey



Map created by Ronda Larson Kramer using February 11, 1854 survey plat map of Township 17N Range 2W, from the General Land Office Records from the U.S. Department of the Interior Bureau of Land Management. [glorerecords.blm.gov](https://www.blm.gov)

# **Exhibit R**

Project No. 2024105328, SEPA Folder No. XA 24-116030







# **Exhibit S**

Project No. 2024105328, SEPA Folder No. XA 24-116030

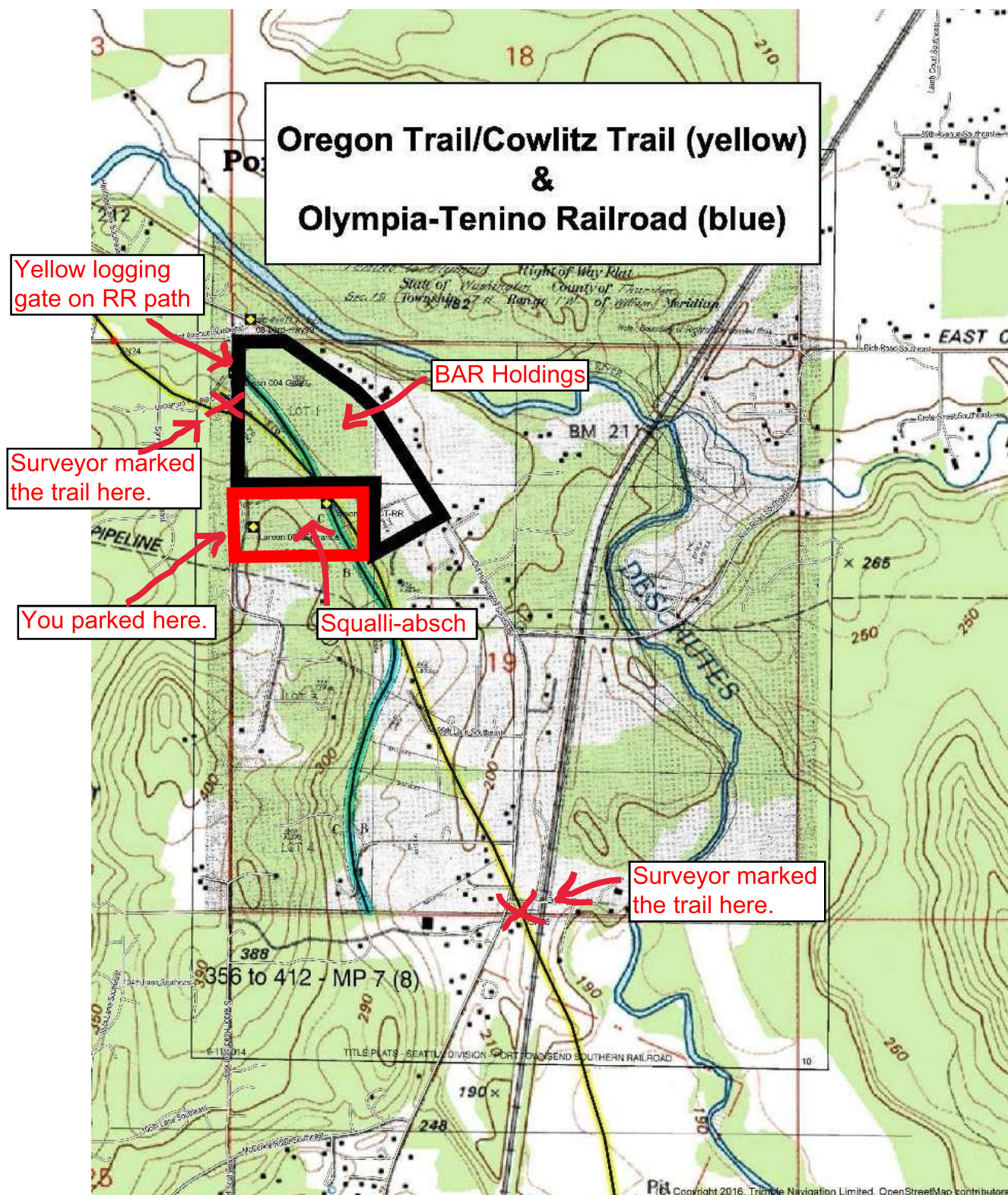






# Exhibit T

Project No. 2024105328, SEPA Folder No. XA 24-116030



This is Oregon Trail historian Dave Welch's overlay map. The red marks on the yellow line mark where the surveyor located the Cowlitz Trail/Oregon Trail. The surveyor surveyed the trail only at the section lines. The surveyor then drew a line connecting the dots to represent the presumed path of the trail. But he did not walk/survey the full trail. However, the trail in this area probably was located not far from the yellow line, because there are no mountains, cliffs, waterways, or other natural obstacles. Also, the Cowlitz Trail represents multiple pathways depending on the mode of transportation—whether on foot, horseback, or wagon—and depending on the season, whether rainy, snowy, or dry. In 2023, Dave and Ronda found two railroad spikes along the railroad grade using a metal detector.

# **Exhibit U**

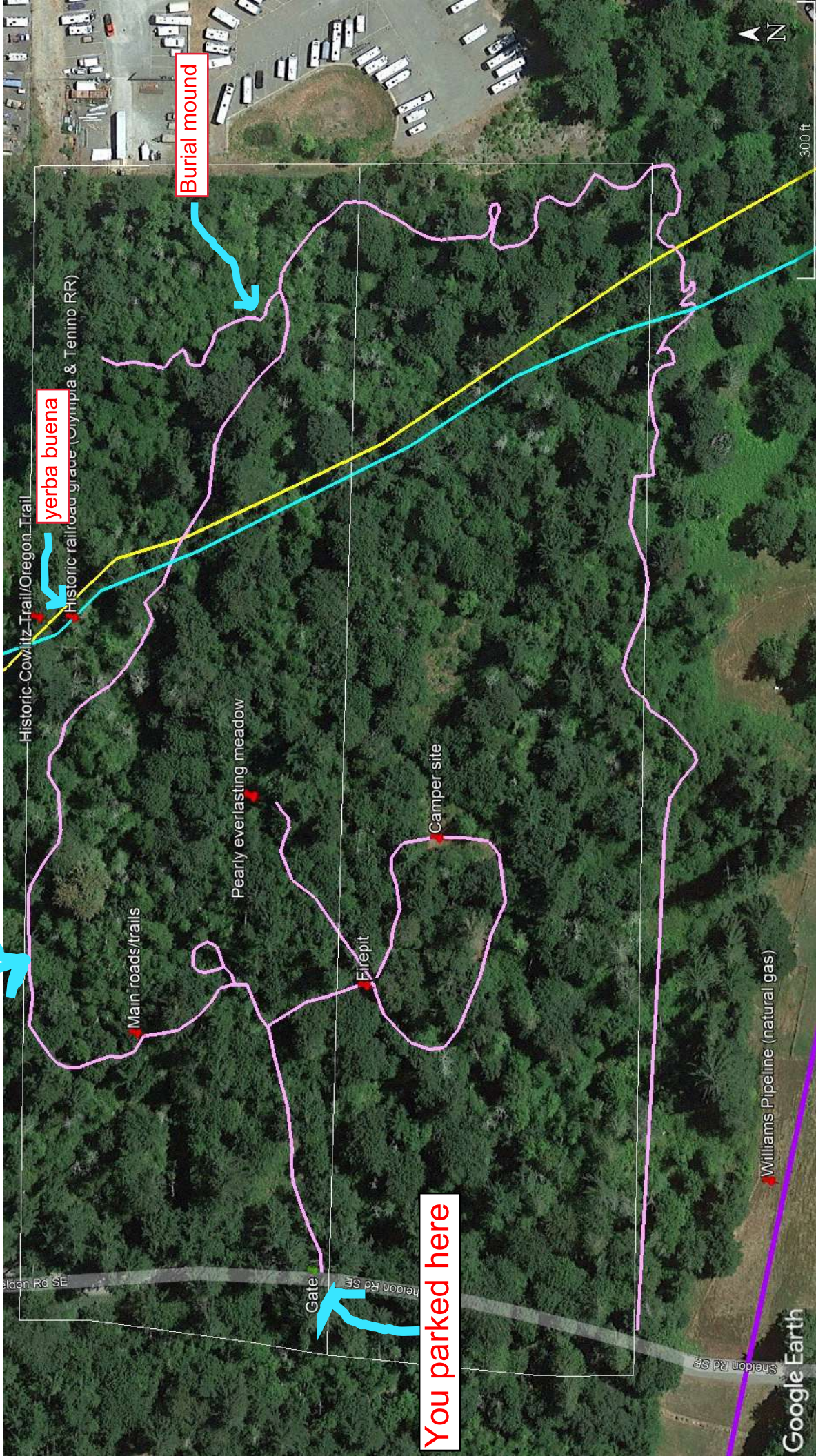
Project No. 2024105328, SEPA Folder No. XA 24-116030



Squalli-absch Family Forest

Eagles' nest platform

You parked here



Google Earth



# **Exhibit V**

Project No. 2024105328, SEPA Folder No. XA 24-116030

U.S. DEPARTMENT OF THE INTERIOR  
**BUREAU OF LAND MANAGEMENT** *PRIVATE CLAIMS* General Land Office Records

[Search Documents](#)[Reference Center](#)[Support](#)[Pathfinder](#)[Shopping Cart](#) [Search Documents](#) [Patent Details](#)

Accession Nr: WAOAA 085477 Document Type: Serial Patent State: Washington Issue Date: 5/15/1869 Cancelled: No

**Note:** This record has not been checked against the legal land patent. We do not have an electronic image for this document.[Patent Details](#)[Patent Image](#)[Related Documents](#)[Printer Friendly](#) **Names On Document**☒ MITCHELL, WILLIAM H 

Military Rank: ---

**Miscellaneous Information**

Land Office:	Olympia
US Reservations:	No
Mineral Reservations:	No
Tribe:	---
Militia:	---
State In Favor Of:	---
Authority:	April 24, 1820: Sale-Cash Entry (3 Stat. 566)
General Remarks:	---

**Document Numbers**

Document Nr:	1542
Misc. Doc. Nr:	---
BLM Serial Nr:	WAOAA 085477
Indian Allot. Nr:	---
Coal Entry. Nr:	---

**Survey Information**

Total Acres:	120.00
Survey Date:	---
Geographic Name:	---
Metes/Bounds:	No

**Land Descriptions**

Map	State	Meridian	Twp - Rng	Aliquots	Section	Survey #	County
<input checked="" type="checkbox"/>	WA	Willamette	017N - 001W	SW1/4NE1/4	19		Thurston
<input checked="" type="checkbox"/>	WA	Willamette	017N - 001W	SE1/4NW1/4	19		Thurston
<input checked="" type="checkbox"/>	WA	Willamette	017N - 001W	NW1/4SE1/4	19		Thurston



# **Exhibit W**

Project No. 2024105328, SEPA Folder No. XA 24-116030

When recorded return to:

JAN 19 '18 739934

BAR HOLDINGS, LLC  
P.O. BOX 14996  
TUMWATER, WA 98511

Thurston County Treasurer  
Real Estate Excise Tax Paid 120.00  
By [Signature] Deputy

TH13456

**STATUTORY WARRANTY DEED** TH13456  
**THURSTON COUNTY TITLE CO**

The Grantor, **THOMAS A. GROVER**, as his separate estate

for and in consideration of **Ten Dollars and other valuable consideration**

in hand paid, conveys, and warrants to **BAR HOLDINGS, LLC, a Washington Limited Liability Company**

the following described real estate, situated in the County of Thurston, State of Washington:

**THE NORTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 19, TOWNSHIP 17 NORTH, RANGE 1 WEST, W.M., LYING SOUTHERLY OF OLD HIGHWAY 99. EXCEPTING THEREFROM THAT PORTION CONVEYED TO THURSTON COUNTY BY DEED RECORDED JUNE 20, 2005 UNDER AUDITOR'S FILE NO. 3741005.**

Abbreviated Legal: **PTN NW 1/4 NW 1/4 19-17-1W**

Tax Parcel Numbers(s): **117-19-220101**

**SUBJECT TO:**

**-Reservation of all oils, gases, coal, ores, minerals and fossils, together with right to enter and explore for same, etc. with provision for compensation for damages caused by the exercise of such right, etc. made by Weyerhaeuser Timber Company in Deed dated June 15, 1921 and recorded June 29, 1921 under Auditor's file no. 110620**

**-Contract and Grant of Easement recorded May 15, 1980 under auditor's file no. 1112014**

Dated: **1/8/2018**

Thomas A. Grover  
**THOMAS A. GROVER**

Page 1 of 2  
LPO 10-05(i)

4607561  
01/19/2018 12:32 PM Deed  
Thurston County Washington  
THURSTON COUNTY TITLE

Pages: 2



STATE OF **Washington**

} ss.

COUNTY OF **Thurston**

I certify that I know or have satisfactory evidence that **THOMAS A. GROVER** is/are the person who appeared before me, and said person acknowledged that he signed this instrument and acknowledged it to be his free and voluntary act for the uses and purposes mentioned in this instrument.

Dated: 1-9-2018



**Darla J. Wilkins**

Notary Public in and for the State of Washington

Residing at **Olympia**

My appointment expires: **9/15/2019**



# **Exhibit X**

Project No. 2024105328, SEPA Folder No. XA 24-116030

gaze looked into the sad, tender eyes of a Sister of Charity.

This sister, one of a band of noble women inhabiting the nunnery, which the Catholic Church had early established in Steilacoom, had hastened to the awful scene as soon as she heard the shots and realized that her ministrations might be needed.

"Go, sister, leave me, your life is in danger," gasped McDonald. "By all the powers of God, church and humanity, I dare them to interfere with me," said the Sister as she moistened the lips and straightened the limbs of the dying man. Not one of that lawless band moved a finger to prevent the sister in her work of mercy. When life was extinct McDonald's remains were taken into the little old Catholic Church, which still stands as a shrine to the weary at the top of the hill, and tenderly prepared for burial. Not yet satisfied with their bloody work the mob started back along the road to find Gibson. The latter, after having his wounds dressed, had insisted on being placed in a wagon and started to town to learn the fate of his partner, McDonald. Within a mile of town the mob met and surrounded the vehicle. Gibson, weak and almost fainting from loss of blood, raised himself in the wagonbed until he could snatch the revolver from the belt of the Indian driver. One shot was all he had strength for but that struck one of the mob in the leg, and had Gibson not been too overcome with the exertion to take aim correctly he would have avenged McDonald's death. The mob made short work of Gibson and shot him through the head.

Almost within the shadow of the asylum is the spot where Chief Leschi expiated his crime of the murder of Joseph Miles and A. Benton Moses at the beginning of the Indian war. This Indian had been surrendered by one of his relatives for a reward of fifty blankets. Leschi was brought to trial before a jury, among whom were Ezra Meeker and Wm. M. Kincaid. After listening to the evidence these men stood for acquittal with the result that the jury, being unable to agree, was finally discharged. At a second trial before Chief Justice Lander the Indian was convicted and sentenced to be hung. Appeal was then taken to the Supreme Court which stayed the execution for a while. The case was this time argued before Justices O. B. McFadden and F. A. Chenoweth. The



decision against Leschi by the Court was unanimous. The opinion was written by Judge McFadden and sealed Leschi's doom. The date of execution was set for January 22, 1858.

Leschi was then sent to Fort Steilacoom to await the fulfillment of his sentence. Dr. Tolmie and other officials of the Hudson Bay Company took active steps to secure a pardon from Governor McMullen, but this was refused.

When the day of execution finally arrived Leschi's friends secured a further delay by working a clever trick. The sheriff of Pierce County and his deputy were placed under arrest by Lieutenant McKibben, who had been appointed a deputy United States Marshal, the trumped up charge against the Sheriff and deputy being the selling of liquor to Indians. They were released from custody as soon as the hour set for the execution was passed. This action on the part of the military officers and Hudson Bay people led to intense indignation among the citizens. Mass meetings were held in Steilacoom and Olympia, at which Governor McMullen and Secretary Mason voiced the indignation of the people at the manner in which the law had been trampled on, and a series of resolutions were adopted denouncing, by name the officers of Forts Nesqually and Steilacoom and Leschi's attorney. As the Territorial Legislature was in session an act was railroaded through both houses demanding a special session of the Supreme Court to pronounce upon the case of Leschi as it then stood.

At this special session the prisoner was resented for a third time and William Mitchell, then acting Sheriff of Thurston County was appointed to carry the sentence into execution. The date fixed was February 19. Captain Isaac Hays, Sheriff of Thurston County, was at this time absent from the state, so the unpleasant duty naturally fell upon the deputy.

In Mr. Mitchell's words:

"On the day set for the execution, Ed. Furst, John Head, George Blankenship, Charley Granger and myself set out on horseback and went to Fort Steilacoom, where the prisoner was turned over to me. The scaffold had been erected about a half mile from the fort and there the execution took place. Knowing that Charley Granger had been a sailor, I asked him to tie the noose about the neck of the condemned man, which he did. Leschi made a speech to the Indians that were there, but as

his talk was in his native tongue and no interpreter being provided I do not know what he said. These formalities having been gone through with, I knocked the pin out from under the trapdoor and Chief Leschi was sent to the happy hunting grounds. He was undoubtedly as cruel and cunning an Indian as there was in the Puget Sound country and deserved hanging."

The scene of the closing act of the "Tragedy of Leschi" was a short distance east of Fort Steilacoom and near the north end of the lake of that name. Here the prairie sinks into a rounding depression forming a natural amphitheatre, in the center of which the gallows had been erected. The scene must have been a dismal one; the rain drizzled down, dripping drearily from the fringe of stunted oaks which outlined the depression. Making a hollow square around the rude scaffold was a line of soldiers and a considerable number of Indians and settlers stood near watching the end of the tragedy.

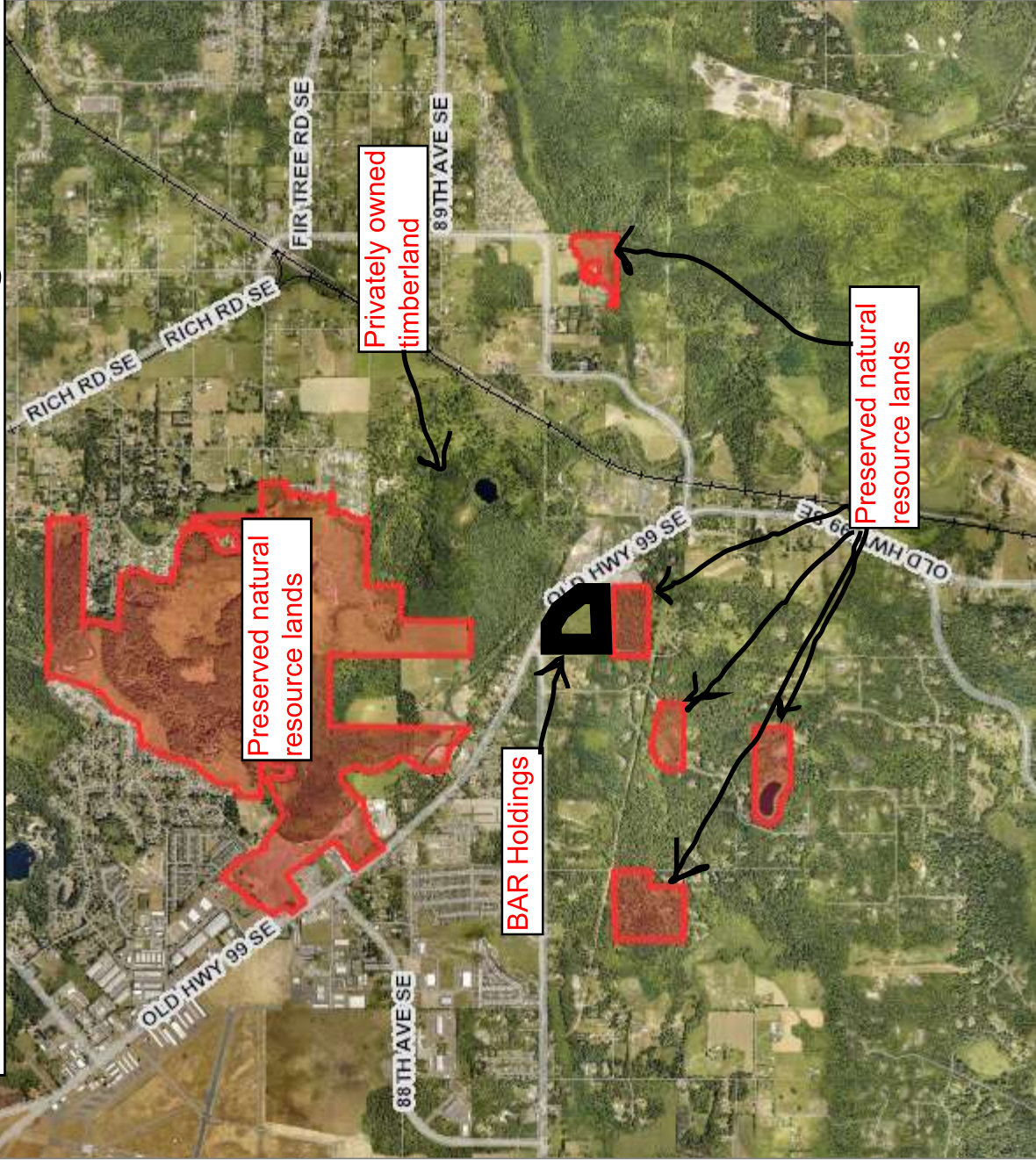


# **Exhibit Y**

Project No. 2024105328, SEPA Folder No. XA 24-116030

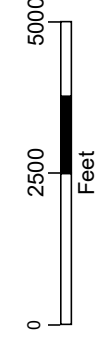


# 770 acres of preserved lands in the BAR Holdings Wildlife Corridor



- Legend
- Roads - Major
  - Major Roads
  - Ramp
  - I-5, US 101
  - Roads (Small Scale)
  - Railroads
  - County Border

Scale 1: 55,558



Map Created Using GeoData Public Website  
Published: 12/19/2024

Note: 770.09 acres total preserved

Preserving Entities:

\*\* Capitol Land Trust (307.56 acres)

\*\* OlyEcosystems (430.48 acres)

\*\* WA Dep't of Fish & Wildlife (32.05 acres)



The information included on this map has been compiled by Thurston County staff from a variety of sources and is subject to change without notice. Additional elements may be present in reality that are not represented on the map. Ortho-photos and other data may not align. The boundaries depicted by these datasets are approximate. This document is not intended for use as a survey product. ALL DATA IS EXPRESSLY PROVIDED 'AS IS' AND 'WITH ALL FAULTS'. Thurston County makes no representations or warranties, express or implied, as to accuracy, completeness, timeliness, or rights to the use of such information. In no event shall Thurston County be liable for direct, indirect, incidental, consequential, special, or tort damages of any kind, including, but not limited to, lost revenues or lost profits, real or anticipated, resulting from the use, misuse or reliance of the information contained on this map. If any portion of this map or disclaimer is missing or altered, Thurston County removes itself from all responsibility from the map and the data contained within. The burden for determining fitness for use lies entirely with the user and the user is solely responsible for understanding the accuracy limitation of the information contained in this map. Authorized for 3rd Party reproduction for personal use only.

# **Exhibit Z**

Project No. 2024105328, SEPA Folder No. XA 24-116030



# PREPROPOSAL STATEMENT OF INQUIRY

**CR-101 (October 2017)**

**(Implements RCW 34.05.310)**

Do **NOT** use for expedited rule making

CODE REVISER USE ONLY

OFFICE OF THE CODE REVISER  
STATE OF WASHINGTON  
FILED

DATE: June 20, 2023

TIME: 9:18 AM

WSR 23-13-092

**Agency:** Washington State Department of Commerce

**Subject of possible rule making:** Recommendations and requirements for housing, urban growth areas, and the rural element in Chapter 365-196 WAC, Procedural Criteria for Adopting Comprehensive Plans and Development Regulations; Commerce may create a new chapter to address recent housing legislation.

**Statutes authorizing the agency to adopt rules on this subject:** RCW 36.70A.190 and E2SHB 1110 – Section 14

**Reasons why rules on this subject may be needed and what they might accomplish:** Updates are necessary to address new legislation on housing, urban growth areas, and rural planning. This includes changes in how local governments plan for affordable housing, increases in residential density, accessory dwelling units, tiny houses, design review, local project review, urban growth area swaps, and infill development in limited areas of more intensive rural development.

**Identify other federal and state agencies that regulate this subject and the process coordinating the rule with these agencies:** Department of Ecology, Housing and Urban Development, Department of Health, Department of Social and Health Services, Department of Veterans Affairs, Department of Archaeology and Historic Preservation, Washington State Department of Transportation, Office of Financial Management, and Department of Labor and Industries. Due to the nature of the legislative changes, Commerce does not anticipate significant coordination issues however, the agency will use the Interagency Working Group to coordinate with state agencies and contact individual agencies directly when appropriate.

**Process for developing new rule (check all that apply):**

☐ Negotiated rule making

☐ Pilot rule making

☐ Agency study

☒ Other (describe) Commerce will utilize guidance developed to address new housing legislation and will solicit

feedback from local governments throughout the rulemaking process. The public is encouraged to provide comments and recommendations on draft rules posted on the agency web site at <https://www.commerce.wa.gov/about-us/rulemaking/> and distributed to our mailing list. Commerce may facilitate focus groups for additional discussion on particular topics with state agencies, local governments and other stakeholders. Commerce will release a preliminary draft of proposed changes and will encourage feedback from tribes, local governments, and other stakeholders. Commerce will consider this feedback before releasing the draft with the proposed rulemaking notice (CR 102). The public will have additional opportunities to comment on draft rules through written comments and/or testimony during the public hearing and comment process.

**Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting:**

Name: Anne Fritzel

Address: 1011 Plum Street, SE Olympia WA, 98504

Phone: 360-259-5216

Fax:

TTY:

Email: [anne.fritzel@commerce.wa.gov](mailto:anne.fritzel@commerce.wa.gov)

Web site: <https://www.commerce.wa.gov/about-us/rulemaking/>

Other:

(If necessary)

Name: Mary Reinbold

Address: 1011 Plum Street, SE Olympia WA, 98504

Phone: 509-638-5449

Fax:

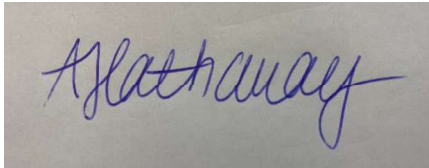
TTY:

Email: [mary.reinbold@commerce.wa.gov](mailto:mary.reinbold@commerce.wa.gov)

Web site: <https://www.commerce.wa.gov/about-us/rulemaking/>

Other:

Additional comments:

<b>Date:</b> June 20, 2023	<b>Signature:</b> 
<b>Name:</b> Amanda Hathaway	
<b>Title:</b> Agency Rules Coordinator	

# **Exhibit AA**

Project No. 2024105328, SEPA Folder No. XA 24-116030





1201 3rd Ave Suite 2200, Seattle, Washington 98101  
p. (206) 343-0681  
[futurewise.org](http://futurewise.org)

January 21, 2025

Thurston County Board of Commissioners  
3000 Pacific Avenue SE  
Olympia, Washington 98501

Dear Commissioners Mejia, Grant, Menser, Fournier, and Clouse:

Subject: Comments on the Board of County Commissioners Public Hearing on the  
Thurston County County-Wide Planning Policy amendments.

Sent via email to: [county.commissioners@co.thurston.wa.us](mailto:county.commissioners@co.thurston.wa.us);  
[Andrew.Boughan@co.thurston.wa.us](mailto:Andrew.Boughan@co.thurston.wa.us)

Thank you for the opportunity to comment on the Thurston County County-Wide Planning Policy amendments. Futurewise strongly supports the amendments providing for the consultation with Indian Tribes and Nations. We recommend that Thurston County also commit to consulting with the Indian Tribes and Nations.

We do have concerns about the countywide planning policies for urban growth area swaps. Futurewise has worked on several proposed urban growth area swaps. We have yet to see a swap that complies with RCW 36.70A.110(8) or RCW 36.70A.130(3)(c). As is pointed out below, the proposed countywide policies also do not comply with important provisions of the RCW 36.70A.110(8) and RCW 36.70A.130(3)(c) and the Growth Management Act (GMA). Given this history, we recommend that Thurston County just drop attempts to conduct urban growth area swaps. Since they can only be done when there is no need to expand the urban growth area to accommodate necessary growth, they are more work than they are worth.

Futurewise works throughout Washington State to support land-use policies that encourage healthy, equitable, and opportunity-rich communities, that protect our most valuable farmlands, forests, and water resources, and encourage growth in urban growth areas to prevent poorly planned sprawl. Futurewise has members across Washington State including Thurston County.

**Futurewise supports the General Policy on Consulting with Indian Tribes and Nations and recommends that Thurston County also commit to consulting with the Indian Tribes and Nations. Please see pages 3 and 4 of the redline draft.**

Futurewise strongly supports the amendments providing for the consultation with Indian Tribes and Nations. We recommend that Thurston County also commit to consulting with the Indian Tribes and Nations. RCW 36.70A.110(9) already requires Thurston County to consult with federally recognized Indian tribes at the earliest possible date prior to the revision of the county's urban growth area authorized by RCW 36.70A.110(8). Committing to consultations in the topics in the General Policy will benefit the County through improved decision making.

**The policy on Urban Growth Boundary Land Swaps needs improvement and is not worth the effort. Please see pages 6 and 7 of the redline draft.**

Futurewise has worked on several proposed urban growth area swaps. We have yet to see a swap that complies with RCW 36.70A.110(8) or RCW 36.70A.130(3)(c). As is pointed out below, the proposed countywide policies also do not comply with important provisions of the RCW 36.70A.110(8) and RCW 36.70A.130(3)(c) and the Growth Management Act (GMA). Given this history, we recommend that Thurston County just drop attempts to conduct urban growth area swaps. Since they can only be done when there is no need to expand the urban growth area to accommodate necessary growth, they are more work than they are worth.

RCW 36.70A.110(8) provides in that:

(8) If, during the county's annual review under RCW 36.70A.130(2)(a), the county determines revision of the urban growth area is not required to accommodate the population projection for the county made by the office of financial management for the succeeding 20-year period, but does determine that patterns of development have created pressure for development in areas exceeding the amount of available developable lands within the urban growth area, then the county may revise the urban growth area or areas based on identified patterns of development and likely future development pressure if the following requirements are met: ....

RCW 36.70A.130(3)(c) provides in part that:

(c) If, during the county's review under (a) of this subsection, the county determines revision of the urban growth area is not required to accommodate the urban growth projected to occur in the county for the succeeding 20-year period, but does determine that patterns of development have created pressure in areas that exceed available, developable lands within the urban growth area, the urban growth area or areas may be revised to accommodate identified patterns of development and likely future development pressure for the succeeding 20-year period if the following requirements are met: ....

However, proposed Countywide Planning Policy 2.6 does not require a determination that a revision of the urban growth area is not required to accommodate the urban growth projected to occur in the county for the succeeding 20-year period for the urban growth area swaps. This is a condition precedent to any UGA swap and needs to be including in proposed Countywide Planning Policy 2.6.

RCW 36.70A.110(8) and RC 36.70A.130(3)(c) require the “county” to “determine that patterns of development have created pressure in areas that exceed available, developable lands within the urban growth area ...”<sup>1</sup> Proposed Countywide Planning Policy 2.6(a) provides in part that “[t]he county or a city or town has determined that patterns of development have created pressure for development in areas that exceed the amount of available developable lands within the Urban Growth Area ....”<sup>2</sup> Since RCW 36.70A.110(8) and RC 36.70A.130(3)(c) require the county to make this determination, proposed Countywide Planning Policy 2.6(a) should be revised to read as follows with our addition double underlined and our deletion double struck through: “[t]he county and the affected cities and towns ~~have or a city or town has~~ determined that patterns of development have created pressure for development in areas that exceed the amount of available developable lands within the Urban Growth Area ....”

RCW 36.70A.110(8)(d) requires that “[l]ess than 15 percent of the areas added to the urban growth area are critical areas other than critical aquifer recharge areas. Critical aquifer recharge areas must have been previously designated by the county and be maintained per county development regulations within the

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<sup>1</sup> Underlining added.

<sup>2</sup> Underlining added.

expanded urban growth area and the revised urban growth area must not result in a net increase in critical aquifer recharge areas within the urban growth area ...” RCW 36.70A.130(3)(iii) provides that “[l]ess than 15 percent of the areas added to the urban growth area are critical areas ....” The requirement that the land added to the urban growth area is generally free of critical areas is important so that the land can be used for urban growth since the presumed goal of adding land to the urban growth area is to encourage urban growth.<sup>3</sup> These requirements should be added to proposed Countywide Planning Policy 2.6.

RCW 36.70A.110(8)(e) provides that “[t]he areas added to the urban growth areas are suitable for urban growth ....” Similarly, RCW 36.70A.130(3)(c)(iv) provides that “[t]he areas added to the urban growth areas are suitable for urban growth ....” The requirement that the land added to the urban growth area is suitable for urban growth is an important basic requirement since the presumed goal of adding land to the urban growth area is to encourage urban growth.<sup>4</sup> This requirement should be added to proposed Countywide Planning Policy 2.6.

We appreciate that proposed Countywide Planning Policy 2.6.d. provides that: “d. Revisions considered during a periodic update as established by RCW 36.70A.130(5)(b) must demonstrate consistency with the requirements of 36.70A.130(3)(c) and these County-Wide Planning Policies.” We certainly agree that urban growth area swaps must comply with the RCW 36.70A.130(3)(c). But there are other requirements applicable to urban growth area swaps including the procedural requirements for public participation in RCW 36.70A.035 and other Growth Management Act (GMA) sections and the substantive prohibitions on expanding urban growth areas into certain flood plains in RCW 36.70A.110(10). There are other limitations as well. We recommend that proposed Countywide Planning Policy 2.6.d. refer to the key requirements and then generally refer to the requirements in the GMA.

We appreciate that proposed Countywide Planning Policy 2.6.e. provides that: “e. Revisions considered as part of the county’s annual review of Comprehensive Plan amendments under 36.70A.130(2)(a) must demonstrate consistency with RCW 36.70A.110(8) and these County-Wide Planning Policies.” We certainly agree that urban growth area swaps must comply with the RCW 36.70A.110(8). But there are other requirements applicable to urban growth area swaps including the procedural requirements for public participation in RCW 36.70A.035 and other

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<sup>3</sup> RCW 36.70A.020(1).

<sup>4</sup> RCW 36.70A.020(1).

Subject: Comments on the Board of County Commissioners Public Hearing on the  
Thurston County County-Wide Planning Policy amendments  
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Page 5

GMA sections, the requirement to consult with federally recognized Indian tribes in RCW 36.70A.110(9), and the substantive prohibitions on expanding urban growth areas into certain flood plains in RCW 36.70A.110(10). There are other limitations as well. We recommend that proposed Countywide Planning Policy 2.6.e. refer to the key requirements, such as RCW 36.70A.110(9), and then generally refer to the requirements in the Growth Management Act.

Thank you for considering our comments. If you require additional information, please contact me at telephone 206-343-0681 or email [tim@futurewise.org](mailto:tim@futurewise.org).

Very Truly Yours,



Tim Trohimovich, WSBA No. 22367  
Director of Planning & Law