



**City Council Meeting
September 15, 2014 - 7:30 PM
Auburn City Hall
AGENDA**

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[Watch the meeting video](#)

Meeting videos are not available until 72 hours after the meeting has concluded.

I. CALL TO ORDER

- A. **Flag Salute**
- B. **Roll Call**
- C. **Announcements, Appointments, and Presentations**
- D. **Agenda Modifications**

II. CITIZEN INPUT, PUBLIC HEARINGS & CORRESPONDENCE

A. Public Hearings

- 1. **2015-2016 Preliminary Biennial Budget* (Wales/Coleman)**
City Council to conduct a public hearing on the 2015-2016 Preliminary Biennial Budget

B. Audience Participation

This is the place on the agenda where the public is invited to speak to the City Council on any issue. Those wishing to speak are reminded to sign in on the form provided.

C. Correspondence

There is no correspondence for Council review.

III. COUNCIL COMMITTEE REPORTS

A. Municipal Services

- 1. **September 8, 2014 Minutes* (Peloza)**

B. Planning & Community Development

- 1. **September 8, 2014 Minutes* (Holman)**

C. Public Works

- 1. **September 2, 2014 Minutes* (Osborne)**

D. Finance

- 1. **September 2, 2014 Minutes* (Wales)**

E. **Les Gove Community Campus**

F. **Council Operations Committee**

1. The next regular meeting of the Council Operations Committee is September 22, 2014 (Wagner)

G. **Junior City Council**

1. The next regular meeting of the Junior City Council is September 15, 2014 (Wagner)

IV. **CONSENT AGENDA**

All matters listed on the Consent Agenda are considered by the City Council to be routine and will be enacted by one motion in the form listed.

A. **Minutes of the September 2, 2014 Regular Meeting***

B. **Claim Vouchers (Wales/Coleman)**

Claims voucher numbers 430385 through 430559 in the amount of \$3,550,727.11 and three wire transfers in the amount of \$708,217.47 and dated September 15, 2014.

C. **Payroll Vouchers (Wales/Coleman)**

Payroll check numbers 534951 through 534981 in the amount of \$833,860.67 and electronic deposit transmissions in the amount of \$1,280,862.61 for a grand total of \$2,114,723.28 for the period covering August 28, 2014 to September 10, 2014.

D. **Public Works Project No. CP1208* (Osborne/Snyder)**

City Council approve award of Contract No. 14-10, to the Lowest Responsible Bidder for Project No. CP1208, Sewer Pump Station Improvements

E. **Public Works Project No. CP1322* (Osborne/Snyder)**

City Council approve Award of Contract No. 14-16, to the Lowest Responsible Bidder for Project No. CP1322, Annual Traffic Signal Improvements

F. **Public Works Consultant Agreement No. AG-C-453* (Osborne/Snyder)**

City Council grant permission to enter into Consultant Agreement No. AG-C-453 with FCS Group for preparation of the Financial Chapters in the Water, Sewer, and Storm Water Comprehensive Plans.

(RECOMMENDED ACTION: City Council approve the Consent Agenda.)

V. **UNFINISHED BUSINESS**

A. **Ordinance No. 6519* (Heid)**

An Ordinance of the City Council of the City of Auburn, Washington, creating a new Chapter 2.92 of the Auburn City Code, providing for a Code of Ethics

VI. **NEW BUSINESS**

There is no new business.

VII. ORDINANCES

A. **Ordinance No. 6513* (Osborne/Snyder)**

An Ordinance of the City Council of the City of Auburn, Washington, granting to Electric Lightwave, LLC, a wholly owned subsidiary of Integra Telecom Holdings, Inc., a Delaware Corporation, a franchise for telecommunications type of utility

(RECOMMENDED ACTION: City Council introduce and adopt Ordinance No. 6513.)

B. **Ordinance No. 6531* (Holman/Snyder)**

An Ordinance of the City Council of the City of Auburn, Washington, approving the request of Polygon Northwest Company for a rezone from R-5 Residential to R-7 Residential 7 DU/ACRE to implement the Comprehensive Plan and amending the City's Zoning Maps accordingly

(RECOMMENDED ACTION: City Council introduce and adopt Ordinance No. 6531.)

VIII. RESOLUTIONS

A. **Resolution No. 5093* (Peloza/Heid)**

A Resolution of the City Council of the City of Auburn, Washington, declaring a certain item of property as surplus and authorizing its disposal

(RECOMMENDED ACTION: City Council adopt Resolution No. 5093.)

B. **Resolution No. 5100* (Osborne/Snyder)**

A Resolution of the City Council of the City of Auburn, Washington, authorizing the Mayor to award and execute a construction contract with the lowest responsible bidder for construction of Community Development and Public Works Contract Number 14-22 for Project CP1410, 2014 Arterial and Collector Crack Seal Project

(RECOMMENDED ACTION: City Council adopt Resolution No. 5100.)

IX. REPORTS

At this time the Mayor and City Council may report on significant items associated with their appointed positions on federal, state, regional and local organizations.

A. **From the Council**

B. **From the Mayor**

X. ADJOURNMENT

Agendas and minutes are available to the public at the City Clerk's Office, on the City website (<http://www.auburnwa.gov>), and via e-mail. Complete agenda packets are available for review at the City Clerk's Office.

*Denotes attachments included in the agenda packet.



AGENDA BILL APPROVAL FORM

Agenda Subject:

2015-2016 Preliminary Biennial Budget

Date:

September 8, 2014

Department:

Finance

Attachments:

[2015-16 Budget Planning](#)

Budget Impact:

\$0

Administrative Recommendation:

City Council conduct the Public Hearing.

Background Summary:

This is the initial request for public input prior to development of the 2015-2016 Biennial Budget and a review of the property tax levy for 2015. Another public hearing will be held after publication of the preliminary biennial budget and prior to final adoption.

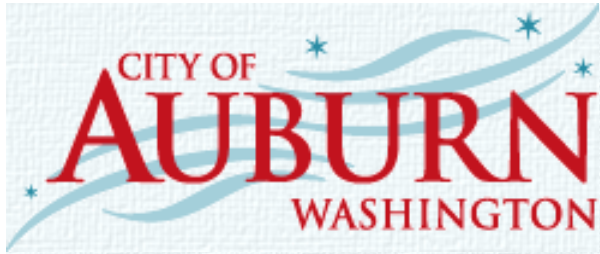
Reviewed by Council Committees:

Councilmember: Wales

Staff: Coleman

Meeting Date: September 15, 2014

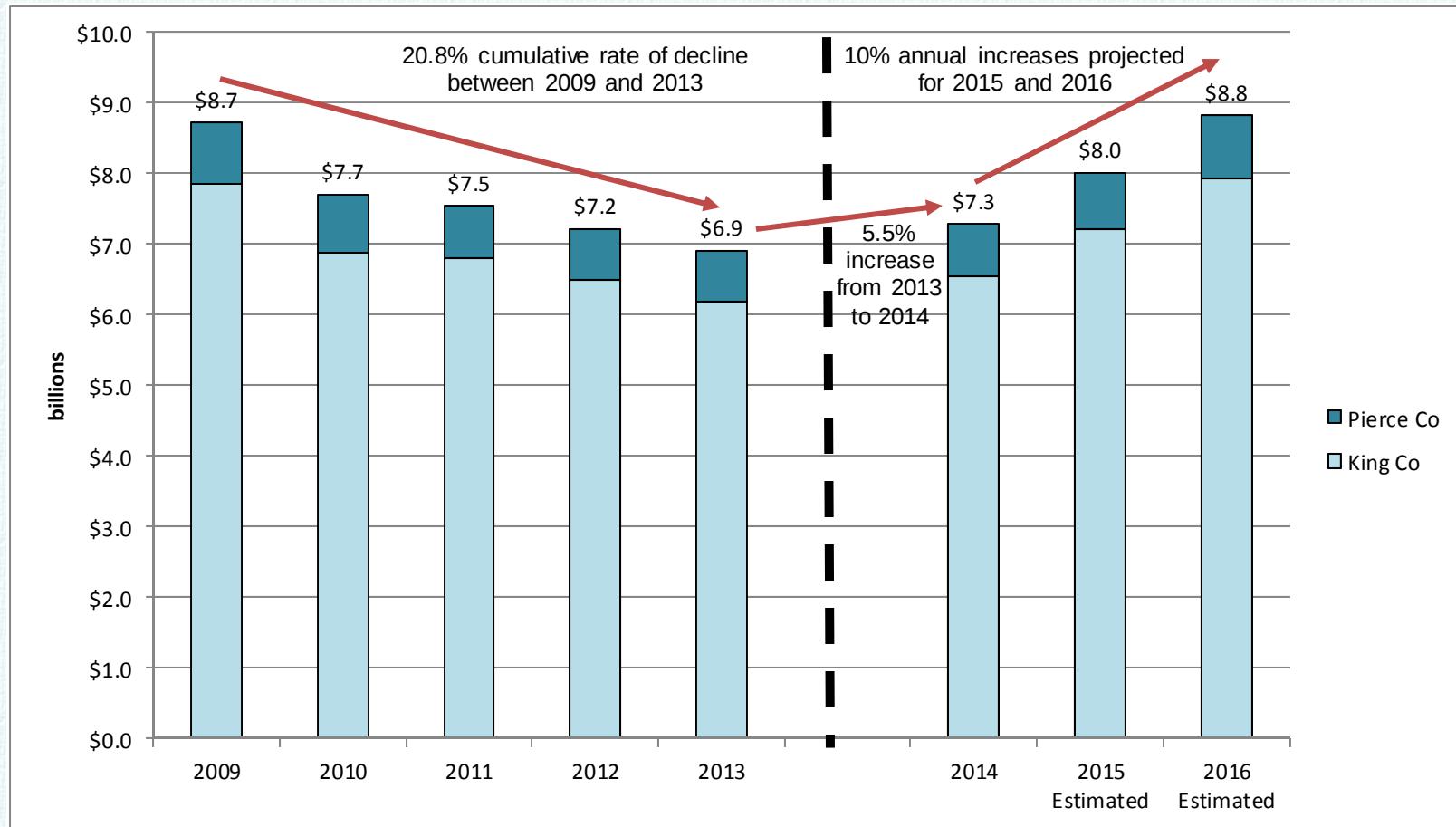
Item Number: PH.1

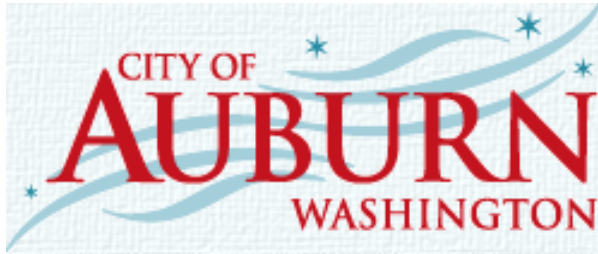


2015-16 Budget Planning General Fund Revenues

Monday, September 15, 2014

Property Assessed Valuation



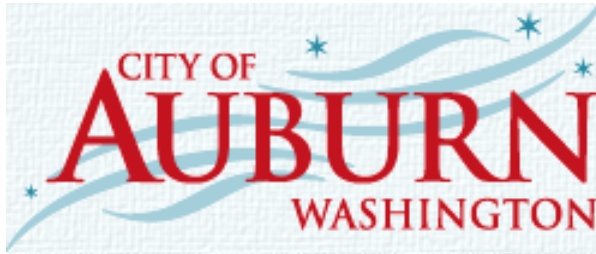


Property Tax Levy

Year	Levy
2012	\$ 14,874,840
2013	\$ 14,513,336
2014	\$ 15,792,046
2015 Estimated	\$ 16,792,834
2016 Estimated	\$ 17,219,610

Assumptions:

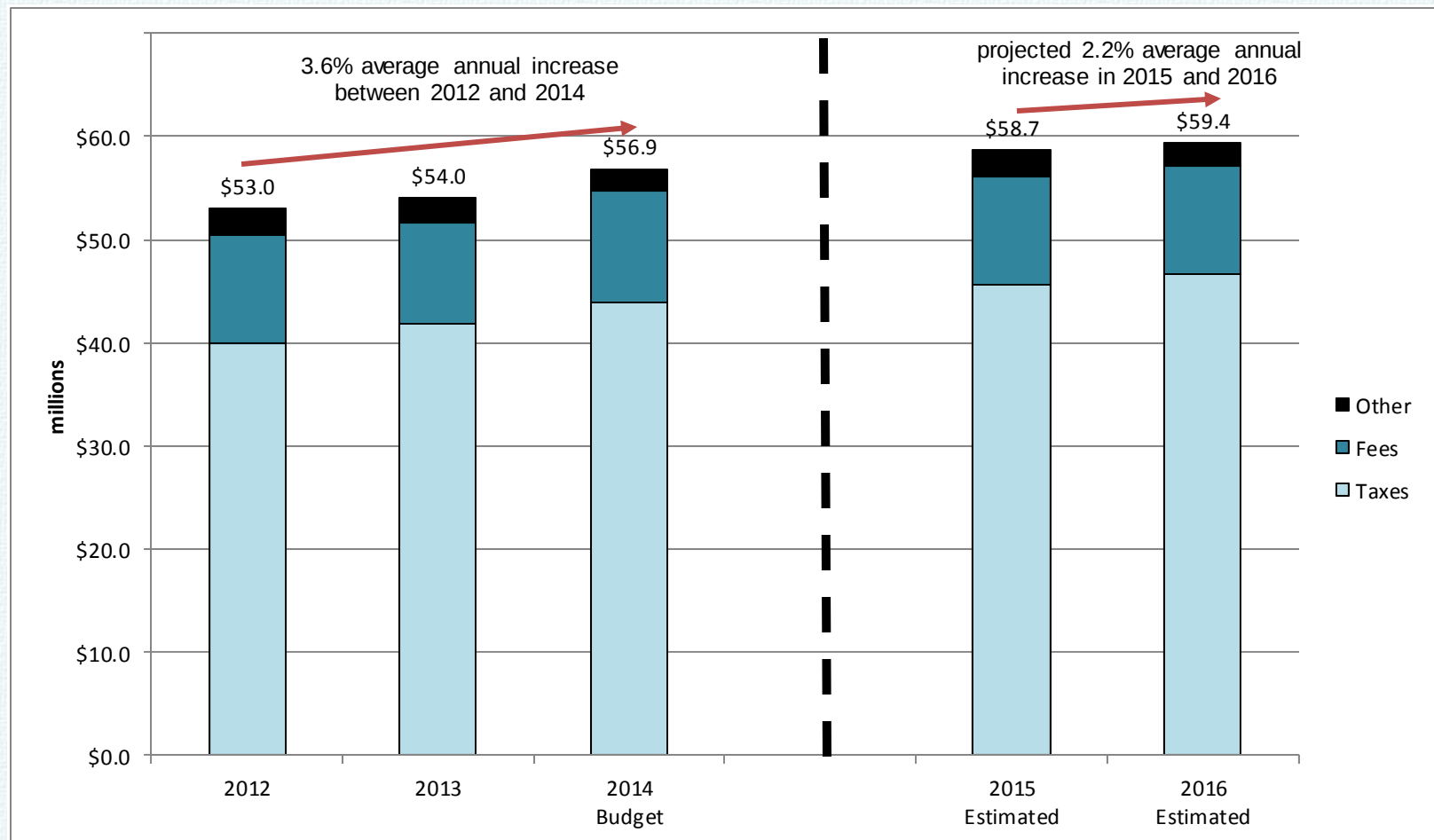
- 10% annual increase in base assessed valuation (2015-2016)
- Annual increase in new construction improvements (2015-2016) equals about \$250,000 NCI levy each year
- 1% levy increases in 2015 and 2016 plus
- Additional levy in 2015 to fund six new positions (\$600K)



Historical AV, Levy and Levy Rate

Year	Assessed Value	% Change in AV	Levy
2009	\$ 8,719,721,892		
2010	\$ 7,702,255,337	-11.7%	\$ 14,239,494
2011	\$ 7,544,294,006	-2.1 %	\$ 14,595,036
2012	\$ 7,214,024,327	-4.4 %	\$ 14,874,840
2013	\$ 6,909,168,076	-4.2 %	\$ 14,513,336
2014	\$ 7,288,082,732	+5.5 %	\$ 15,792,046
2015E	\$ 8,016,891,005	+10.0 %	\$ 16,792,834
2016E	\$ 8,818,580,106	+10.0 %	\$ 17,219,610
Total Change		+1.1 %	

General Fund Revenues



End of Presentation



AGENDA BILL APPROVAL FORM

Agenda Subject:

September 8, 2014 Minutes

Date:

September 11, 2014

Department:

Police

Attachments:

[September 8, 2014 Minutes](#)

Budget Impact:

\$0

Administrative Recommendation:**Background Summary:****Reviewed by Council Committees:**

Municipal Services

Councilmember: Pelosa

Staff:

Meeting Date: September 15, 2014

Item Number: MS.1



**Municipal Services Committee
September 8, 2014 - 3:30 PM
City Hall Conference Room 3
MINUTES**

I. CALL TO ORDER

Chair Peloza called the meeting to order at 3:30 p.m. in Conference Room 3 of City Hall, 25 West Main Street, Auburn, WA.

A. Roll Call

Members present: Chair Bill Peloza, Vice Chair Wayne Osborne and Member Claude DaCorsi.

Staff present: Mayor Nancy Backus, Chief of Police Bob Lee, Finance Director Shelley Coleman, Jamelle Garcia and Police Secretary/Scribe Heather Shaw.

Others present: Auburn Reporter representative Robert Whale.

B. Announcements

C. Agenda Modifications

II. CONSENT AGENDA

A. August 25, 2014 Minutes

Vice Chair Osborne moved to accept the Minutes as presented. Member DaCorsi seconded. Chair Peloza concurred.

MOTION PASSED: 3-0

III. DISCUSSION ITEMS

A. DARE Program Update (Lee)

Chief of Police, Bob Lee provided a follow-up on Resolution No. 5093 regarding the approval of the surplus of the department's DARE vehicle. The surplus of the vehicle will allow for the vehicle to be donated to the school district for use. The school district will now take over the DARE program with support from the police department. Committee discussion followed. Resolution No. 5093 will be considered at the next city council meeting.

B. Airport Hangar Development (Coleman)

Director Shelley Coleman briefed the committee on the status of the Auburn Municipal Airport T Hangar Enclosure project. Chair Peloza addressed the committee and asked if anyone had any questions after their review of the provided documents. Vice Chair Osborne questioned why there were no interior walls for 316 & 317 and asked what those sections would be used for. Shelley advised that they will be used for hangars though there was discussion that they would be used for storage of airport equipment. Should there be a demand for additional hangars, they will be used for that purpose. Jamelle Garcia from the airport informed the committee that there are currently 5 hangars reserved and paid for with an additional 7 on the waiting list without payment in full at this time. Director Coleman advised the committee that though they have gotten bids from local businesses, they are still in need of competitive bid pricing as well as the assignment of a project manager for the job. Chair Peloza questioned whether we could move forward to full council at this time. Vice Chair Osborne addressed his hesitation in moving forward with a resolution until there is a competitive bid price in place and instead suggested that a proposed resolution be presented to the committee at the next scheduled Municipal Services committee meeting for discussion. Shelley Coleman informed the committee that the architect has already obtained a permit for the project. Additional Committee discussion followed.

C. Project Matrix

The Project Matrix was reviewed but no changes were identified.

IV. **ADJOURNMENT**

The meeting was adjourned at 3:46 p.m. The next regular meeting of the Municipal Services Committee is scheduled for Monday, September 22, 2014 at 3:30 p.m. in Conference Room 3 of City Hall, 25 West Main Street, Auburn, WA.

Signed this _____ day of September, 2014.

Bill Peloza, Chair

Heather Shaw, Police Secretary/Scribe



AGENDA BILL APPROVAL FORM

Agenda Subject:

September 8, 2014 Minutes

Date:

September 10, 2014

Department:

Community Development
& Public Works

Attachments:

[September 8, 2014 Minutes](#)

Budget Impact:

\$0

Administrative Recommendation:**Background Summary:****Reviewed by Council Committees:**

Councilmember: Holman

Staff:

Meeting Date: September 15, 2014

Item Number: PCD.1



**Planning and Community
Development
September 8, 2014 - 5:00 PM
Annex Conference Room 2
MINUTES**

I. CALL TO ORDER

Chair Holman called the meeting to order at 5:00 p.m. in Annex Conference Room 2 located on the 2nd floor of One Main Professional Plaza, One East Main Street, Auburn, Washington.

A. Roll Call

Chair John Holman, Vice-Chair Largo Wales, and Member Yolanda Trout were present. Also present were Mayor Nancy Backus; Director of Community Development and Public Works Kevin Snyder; Parks, Arts & Recreation Director Daryl Faber; Assistant Community Development Services Director Jeff Tate; Planning and Design Services Manager Elizabeth Chamberlain; and Community Development Secretary Tina Kriss.

Members of the Audience present: Robert Whale of the Auburn Reporter, Parks & Recreation Board Member Michael Hassen, and Councilmember Rich Wagner.

B. Announcements

1. **Presentation - Parks & Recreation Board (Faber)**
Parks, Arts, and Recreation Director Daryl Faber will provide a presentation on the 2014 plans and activities of the Parks and Recreation Board.

Parks, Arts and Recreation Director Daryl Faber introduced the Parks and Recreation Board Chair Michael Hassen.

An overview of the recreation highlights, new programs and activities were reviewed including attendance at various events.

Staff updated the Park Policy Manual and park rules signage. Staff reviewed the proposed Auburn Youth/Teen/Community Center and safety proposals for Les Gove Campus.

C. Agenda Modifications

II. CONSENT AGENDA

- A. Minutes - August 25, 2014 (Tate)

Vice-Chair Wales moved and Member Trout seconded to approved the August 25, 2014 Planning and Community Development Committee meeting minutes as written.

Motion unanimously approved. 3-0

III. DISCUSSION ITEMS

A. Pierce County Countywide Planning Policies (Chamberlain)

Planning and Design Services Manager Elizabeth Chamberlain provided an overview of the revised Countywide Planning Policies related to annexations and Urban Growth Area (UGA) expansions in Pierce County. The Committee and staff discussed the proposed terminology change from "urban service area" to "Potential Annexation Area" and the unaffiliated urban growth area adjacent to the City; a map of the area was reviewed. The Committee was supportive of the Countywide Planning Policies.

The Committee asked staff if they would provide the PSRC's growing transit communities information to a future meeting and staff confirmed. Staff stated the next steps will be to bring forward a resolution for ratification of the amendments to the CPPs at the next meeting.

B. "Investing in Place" Discussion (Tate/Snyder)

Assistant Director Tate opened the discussion on "Investing in Place" by reviewing a PowerPoint presentation focusing on old and new amenities, beautification, and design to support short-term and long-term economic development efforts in the downtown area.

Paint, updated door fronts, beautification with plants and planters, and creating gathering areas are all small investments that can be made to create warm visual intrigue in downtown. Being creative with murals, awnings, and lighting are all concepts that can be looked at. Staff explained how these low-cost improvements can increase the pedestrian friendly environment and cause an area to stand out. The Committee expressed their desire to continue discussing these options in partnership with various stakeholders, business, and property owners to encourage the opportunity to improve and create a downtown that is prosperous and vibrant. The Committee liked the idea of providing incentives for these improvements.

C. Director's Report (Tate)

Assistant Director Tate reported that staff brought forward the proposed amendments to Chapter 17.09 related to Short Plats and the proposed code amendments to Chapter 18.29, Downtown Urban

Center (Floor Area Ratio) to the Planning Commission for review and will be bringing them back for public hearing at the October meeting.

Planning and Design Services Manager Elizabeth Chamberlain updated the Committee on the status and activity of the "Imagine Auburn" Comprehensive Plan update.

D. PCDC Status Matrix (Tate)

There were no changes recommended by the Committee to the PCDC Status Matrix.

IV. **ADJOURNMENT**

There being no further business to come before the Planning and Community Development Committee, the meeting was adjourned at 6:21 p.m.

Approved this _____ day of _____,
2014.

John Holman - Chair

Tina Kriss - Community Development Secretary



AGENDA BILL APPROVAL FORM

Agenda Subject:

September 2, 2014 Minutes

Date:

September 9, 2014

Department:

Public Works

Attachments:

[Draft Minutes](#)

Budget Impact:

\$0

Administrative Recommendation:**Background Summary:**

See attached draft minutes.

Reviewed by Council Committees:

Public Works

Councilmember: Osborne

Staff:

Meeting Date: September 15, 2014

Item Number: PW.1



**Public Works Committee
September 2, 2014 - 3:30 PM
Annex Conference Room 2
MINUTES**

I. CALL TO ORDER

Chairman Wayne Osborne called the meeting to order at 3:30 p.m. in Conference Room #2, located on the second floor of Auburn City Hall, One East Main Street, Auburn, Washington.

A. Roll Call

Chairman Wayne Osborne, Vice-Chair Bill Peloza, and Member Claude DaCorsi were present. Also present during the meeting were: Mayor Nancy Backus, Community Development & Public Works Director Kevin Snyder, Assistant Director of Engineering/City Engineer Ingrid Gaub, Assistant Director of Public Works Operations Randy Bailey, Assistant City Engineer Jacob Sweeting, Acting Utilities Engineer Susan Fenhaus, Transportation Manager Pablo Para, Capital Projects Manager Ryan Vondrak, Project Engineer Seth Wickstrom, Project Engineer Kim Truong, IT Director Ron Tiedeman, Director of Administration Michael Hursh, Planning & Design Services Manager Elizabeth Chamberlain, City Attorney Dan Heid, Street Systems Engineer Jai Carter, Transportation Planner Joe Welsh and Public Works Secretary Molly Mendez.

B. Announcements

There were no announcements.

C. Agenda Modifications

There were two agenda modifications adding Discussion Item F, Resolution No. 5098 and Discussion Item G, Resolution No. 5099, to the agenda.

II. CONSENT AGENDA

A. Approval of Minutes

Public Works Committee to approve the minutes of the August 18, 2014 Public Works Committee meeting.

It was moved by Vice-Chair Peloza, seconded by Member DaCorsi, that the Committee approve the Public Works Committee Meeting minutes for date, August 18, 2014.

Motion carried 3-0.

III. ACTION

- A. Right-of-Way Use Permit No. 14-33 (Mund)
Approve Right-of-Way Use Permit No. 14-33 for Auburn Parks, Arts and Recreation Veterans Day Parade

Engineering Aide Mund explained Right-of-Way Use Permit No. 14-33 would allow the City of Auburn Parks, Arts and Recreation Department to use City streets on Saturday, November 8, 2014 for their annual Veterans Day Parade.

Following a question asked by Chairman Osborne, Assistant Director of Engineering/City Engineer Gaub indicated that Community Development and Public Works staff do not currently issue traffic advisory notices for the event but would check with Parks staff on what they do.

It was moved by Vice-Chair Peloza, seconded by Member DaCorsi, that the Committee approve Right-of-Way Use Permit No. 14-33 for Auburn Parks, Arts and Recreation Veterans Day Parade.

Motion carried 3-0.

- B. Public Works Project No. CP1308 (Truong)
Grant permission to advertise for bids for Project No. 1308, BNSF Utility Crossings

Project Engineer Truong explained staff is seeking permission to advertise for bids for Project No. CP1308, BNSF Utility Crossings.

Assistant Director of Engineering/City Engineer Gaub responded to a question asked by Vice-Chair Peloza regarding the responsibility for the relocation cost for this project.

In response to a question asked by Chairman Osborne, Assistant Director of Engineering/City Engineer Gaub explained there is an existing small water line that crosses the railroad tracks along Auburn Black Diamond Road that is leaking. A new water line will be installed to replace the existing leaking line.

Vice-Chair Peloza asked what the purpose is of the proposed 3rd rail. Transportation Planner Welsh replied stating the proposed 3rd rail is for capacity purposes to help accommodate Sound Transit trains.

It was moved by Vice-Chair Peloza, seconded by Member DaCorsi, that the Committee grant permission to advertise for bids for Project No. CP1308, BNSF Utility Crossings.

Motion carried 3-0.

- C. Public Works Project No. CP1312 (Wickstrom)
Grant permission to initiate Project No. CP1312 Annual Storm Repair and Replacement Project

Project Engineer Wickstrom provided a brief background summary of the project.

Project Engineer Wickstrom confirmed this project is to repair existing infrastructure and will not increase the capacity of any of the sites in response to a question asked by Vice-Chair Pelosa.

It was moved by Vice-Chair Pelosa, seconded by Member DaCorsi, that the Committee grant permission to initiate Project No. CP1312, Annual Storm Repair and Replacement Project.

Motion carried 3-0.

- D. Design Standards Revisions - Landscaping (Welsh)
Approve the Auburn Design Standards Manual revisions to Chapter 10, Sections 10.08

Transportation Planner Welsh refreshed the Committee of the discussion at the previous Public Works Committee meeting regarding this agenda topic.

Transportation Planner Welsh mentioned the design standards are determined for new construction in the public right-of-way and not typically for existing situations.

Member DaCorsi stated his concern is regarding unsightly tree trimming around the power lines.

Transportation Planner Welsh provided a brief overview of the proposed revisions to the Auburn Design Standards Manual and that tree trimming may be more appropriately addressed within the City code and franchise requirements.

Chairman Osborne noted a Scrivener's error within Section 10.08.10, page 38 of the packet. Staff will correct.

It was moved by Vice-Chair Pelosa, seconded by Member DaCorsi, that the Committee approve the Auburn Design Standards Manual revisions to Chapter 10, Sections 10.8.

Motion carried 3-0.

- E. Resolution No. 5095 (Vondrak)
A Resolution of the City Council of the City of Auburn, Washington,

Authorizing the Mayor to Execute an Agreement with the City of Kent regarding Auburn's S 277th Street Corridor Project and Jurisdiction over the South 277th Street Corridor

Capital Projects Manager Vondrak explained Resolution No. 5095 authorizes the Mayor to execute an agreement with the City of Kent regarding Auburn's S 277th Street Corridor Project and jurisdiction over the S 277th Street Corridor.

Assistant Director of Engineering/City Engineer Gaub clarified the definition of the wording "Miscellaneous Termination" on page 46 of the packet in response to a question asked by Chairman Osborne.

It was moved by Vice-Chair Peloza, seconded by Member DaCorsi, that the Committee recommend that City Council adopts Resolution No. 5095.

Motion carried 3-0.

IV. DISCUSSION ITEMS

A. 2014 Arterial and Collector Crack Seal Project (Carter)

Street Systems Engineer Carter explained staff is seeking approval for the scope of work for the 2014 Arterial and Collector Crackseal Project. Carter provided a brief overview of the project and presented a map showing the proposed roads to be included in the project.

There were no questions from the Committee.

B. Proposed Revision to City Engineering Design Standards (Para)

Transportation Manager Para indicated the purpose of this item is to brief the Committee on the revision to the Transportation section of the Engineering Design Standards necessary to maintain consistency with proposed revisions to Title 17 for Short Subdivisions of the Auburn Municipal Code.

Assistant Director of Engineering/City Engineer Gaub clarified the design standards following a question asked by Chairman Osborne.

C. Capital Project Status Report (Sweeting)

For the purpose of these minutes, this item was discussed after Discussion Item H.

Item 11 – CP0915 – Well 1 Improvements – Well Replacement:
Chairman Osborne made recommendation to remove the wording "or replace" from the description as Well 1 will be rehabilitated

instead of replaced per the last Public Works Committee meeting. Staff concurred and will revise wording as recommended.

Item 14 – CP1308 – BNSF Utility Crossings Project:

Chairman Osborne pointed out that the dollar values need to be updated as there were additional funds added to this project. Assistant City Engineer Sweeting noted this information and will update as requested.

Item A – CP1324 – Airport Runway & Apron Rehabilitation:

Mayor Backus responded to a question asked by Chairman Osborne regarding the contractor for this project.

Chairman Osborne requested the Public Works Committee members receive a follow up email once the solutions have been made with the contractor. Mayor Backus will provide the email as requested.

D. Significant Infrastructure Projects by Others - Public Works Status Report (Gaub)

There were no questions from the Committee.

E. Action Tracking Matrix (Gaub)

There were no questions from the Committee.

F. Resolution No. 5098

For the purpose of these minutes, this item was discussed prior to Discussion Item C.

IT Director Tiedeman explained Resolution No. 5098 is a proposed lease agreement between Verizon Wireless and the City of Auburn at the Fulmer Park site. The proposed plan would replace an existing light pole and obtain an exemption to rise an additional fifteen percent which would increase the pole height from fifty seven feet to sixty two feet. Verizon Wireless will replace the pole and provide space on the pole for the City and give title to the City for the equipment once everything has been signed and approved. The lease agreement would pay five years lease payments upfront in a lump sum and then continue after that in five year segments.

IT Director Tiedeman clarified the dollar amount associated with the five year segments following a question asked by Chairman Osborne.

Answering a question asked by Vice-Chair Peloza, IT Director Tiedeman indicated this will not cover the WIFI at the Sound Transit Station.

G. Resolution No. 5099

For the purpose of these minutes, this item was discussed after Discussion Item F.

Director of Administration Hursh explained Resolution No. 5099 is Council's opposition to the closure of the Auburn and Federal Way public health clinic.

Chairman Osborne commented that he would like to have the City Attorney read Resolution No. 5099 out loud at the City Council meeting. Director of Administration Hursh concurred.

V. **ADJOURNMENT**

There being no further business to come before the Public Works Committee, the meeting was adjourned at 3:58 p.m.

Approved this 15th day of September, 2014.

Wayne Osborne
Chairman

Molly Mendez
Public Works Department Secretary



AGENDA BILL APPROVAL FORM

Agenda Subject:

September 2, 2014 Minutes

Date:

September 10, 2014

Department:

Administration

Attachments:

[9-2-2014 minutes](#)

Budget Impact:

\$0

Administrative Recommendation:**Background Summary:****Reviewed by Council Committees:**

Councilmember: Wales

Staff:

Meeting Date: September 15, 2014

Item Number: FN.1



**Finance Committee
September 2, 2014 - 5:00 PM
Annex Conference Room 1
MINUTES**

I. CALL TO ORDER

Chair Largo Wales called the meeting to order at 5:00 p.m. in Annex Conference Room 1 located on the second floor of the City Hall Annex at 1 East Main Street in Auburn.

A. Roll Call

Chair Wales, Vice Chair John Holman, and Member Yolanda Trout were present.

Officials and staff members present included: Mayor Nancy Backus, Councilmember Bill Peloza, City Attorney Daniel B. Heid, Director of Administration Michael Hursh, Chief of Police Bob Lee, Innovation and Technology Director Ron Tiedeman, Finance Director Shelley Coleman, Capital Projects Manager Ryan Vondrak and Deputy City Clerk Shawn Campbell.

B. Announcements

There was no announcement.

C. Agenda Modifications

Resolution No. 5098 and Resolution No. 5099 were both added to the agenda under Resolutions. Ordinance No. 6529 and Resolution No. 5095 were both moved to discussion items.

II. CONSENT AGENDA

A. August 18, 2014 Finance Committee Minutes

See payroll vouchers below for approval of the minutes.

B. Claims Vouchers (Coleman)

Claims voucher 430217 through 430384 in the amount of \$2,064,146.34 and 3 wire transfers in the amount of \$262,043.27 and dated September 2, 2014.

See payroll vouchers below for approval of claims vouchers.

C. Payroll Vouchers (Coleman)

Payroll check numbers 534920 through 534950 in the amount of \$271,413.58, electronic deposit transmissions in the amount of

\$1,321,772.30 for a grand total of \$1,593,185.88 for the period covering August 14, 2014 to August 28th 2014.

Vice Chair Holman moved and Member Trout seconded to approve the consent agenda.

MOTION CARRIED UNANIMOUSLY. 3-0

III. RESOLUTIONS

A. Resolution No. 5098

A Resolution of the City Council of the City of Auburn, Washington, authorizing the Mayor to execute a lease agreement between the City of Auburn and, Seattle SMSA Limited Partnership, D/B/A Verizon Communications, for use of City facilities

Director Tiedeman explained the resolution allows Verizon to install equipment on City property. The neighbors were informed about the project through the Conditional Use Permit process. Verizon will pay lease payments to the City annually.

Vice Chair Holman moved and Member Trout seconded to approve and forward Resolution No. 5098 to the full Council for consideration.

MOTION CARRIED UNANIMOUSLY. 3-0

B. Resolution No. 5099

A Resolution of the City Council of the City of Auburn, Washington, opposing closure of the King County Public Health Clinic in Auburn

Director Hursh explained Resolution No. 5099 is the City of Auburn's public statement of opposition to the closure of the King County Public Health clinic in Auburn.

Chair Wales thanked the City leadership for developing a regional approach to this issue. Member Trout noted the community will lose a great deal of resources for those with the highest need if King County closes the Public Health Clinic in Auburn. Vice Chair Holman asked if Director Hursh is aware of the amount the City currently pays to fund King County Public Health. Director Hursh stated Public Health is funded through sales tax and he does not currently have the total amount the City of Auburn taxpayers contribute. Director Hursh stated he would forward the information to the Council as soon as possible. Director Hursh noted \$2.5 million per year in WIC (Woman-Infant-Children) vouchers are spent in the City of Auburn. Councilmember Pelozo requested a letter to accompany the resolution when it is sent to King County explaining the City's position.

IV. DISCUSSION ITEMS

- A. Ordinance No. 6529 (Heid)
An Ordinance of the City Council of the City of Auburn, Washington, amending sections 6.01.050, 6.01.070 and 6.01.100 of the Auburn City Code, relating to animal control

City Attorney Heid explained Ordinance No. 6529. He stated the ordinance revises language on impounding an animal. He said it clarifies the process and who has final approval for euthanization of an animal, how long an owner has to reclaim an animal prior to the animal being available for adoption and the fees included.

Chair Wales stated she thinks it is important to have the notification process clear and concise.

- B. Resolution No. 5095 (Vondrak)
A Resolution of the City Council of the City of Auburn, Washington, authorizing the Mayor to execute an agreement with the City of Kent regarding Auburn's S 277th Street Corridor Project and jurisdiction over the South 277th Street Corridor

Project Manager Vondrak explained the City of Auburn has been working with the City of Kent to acquire a portion of 277th Street. Once the City has ownership of this portion of 277th Street the City can move forward with the planned expansion of the road. He stated the project is currently in the design phase.

City Attorney Heid noted this is a boundary line adjustment not a purchase of property. Vice Chair Holman explained if the road belongs to one jurisdiction it makes it easier for both road maintenance and police.

- C. Resolution No. 5093 (Lee)
A Resolution of the City Council of the City of Auburn, Washington declaring a certain item of property as surplus and authorizing its disposal

Chief Lee introduced Resolution No. 5093. He explained the resolution is to surplus a DARE van and donate it to the Auburn School District.

- D. Airport Hangar Development (Coleman)

Director Coleman explained the Airport Advisory Board has been discussing with the Auburn Municipal Airport management group the need for additional enclosed hangars. The preliminary estimates have the cost of the conversion to be approximately \$300,000.00. The funds allocated in the 2013 - 2014 Budget will not cover the full cost of the conversion, additional funds will need to be identified. The City would recover the funds in increased revenue in approximately four years. Director Coleman suggested the City

provide the Airport Fund an interfund loan with a five year repayment schedule.

V. ADJOURNMENT

There being no further business to come before the Committee, the meeting adjourned at 5:36 p.m.

APPROVED this _____ day of September, 2014.

LARGO WALES, CHAIR

Shawn Campbell, Deputy City Clerk



AGENDA BILL APPROVAL FORM

Agenda Subject:

Minutes of the September 2, 2014 Regular Meeting

Date:

September 10, 2014

Department:

Administration

Attachments:

[9-2-2014 Council Minutes](#)

Budget Impact:

\$0

Administrative Recommendation:**Background Summary:****Reviewed by Council Committees:****Councilmember:****Staff:**

Meeting Date: September 15, 2014

Item Number: CA.A



**City Council Meeting
September 2, 2014 - 7:30 PM
Auburn City Hall
MINUTES**

I. CALL TO ORDER

A. Flag Salute

Mayor Nancy Backus called the meeting to order at 7:30 p.m. and led those in attendance in the Pledge of Allegiance.

B. Roll Call

City Councilmembers present: Deputy Mayor Rich Wagner, Bill Peloza, Largo Wales, Wayne Osborne, John Holman, Claude DaCorsi, and Yolanda Trout.

Department Directors and staff members present: Innovation and Technology Director Ron Tiedeman, City Attorney Daniel B. Heid, Community Development and Public Works Director Kevin Snyder, Police Chief Bob Lee, Planning and Design Services Manager Elizabeth Chamberlain, Senior Planner David Jones, Transportation Planner Joe Welsh, Finance Director Shelley Coleman, Director of Administration Michael Hursh, Economic Development Manager Doug Lein, and Deputy City Clerk Shawn Campbell.

C. Announcements, Appointments, and Presentations

1. Constitution Week Proclamation

Mayor Backus to proclaim the week of September 17-23, 2014 as "Constitution Week" in the City of Auburn.

Mayor Backus read and presented a proclamation declaring week of September 17-23, 2014 as "Constitution Week" in the City of Auburn.

Peggy Goldneman accepted the proclamation on behalf of the Lakota Chapter of the Daughters of the Revolution. Ms. Goldneman read a quote from Justice Sandra Day O'Connor regarding the United States of America Constitution.

D. Agenda Modifications

Resolution No. 5098 and 5099 were added to the agenda and an updated version of Ordinance No. 6525 was provided to Council prior to the meeting.

II. CITIZEN INPUT, PUBLIC HEARINGS & CORRESPONDENCE

A. Public Hearings

1. Public Hearing for Franchise Agreement No. 13-28 for Electric Lightwave, LLC (Osborne/Snyder)
City Council to hold a public hearing on the application of Electric Lightwave, LLC, for a non-exclusive franchise for the right of entry, use and occupation of certain public right(s)-of way within the city, expressly to install, construct, erect, operate, maintain, repair, relocate and remove its facilities in, on, upon, along and/or across those right(s)-of-way. The purpose of the public hearing is to determine public benefit and impact, applicant compliance, public right-of-way capacity to accommodate the telecommunication system, potential disruption of public right-of way, and present and future use of the public right-of-way.

Transportation Planner Joe Welsh introduced the Franchise Agreement with Electric Light Wave to operate a telecommunications network in the City of Auburn.

Mayor Backus opened the public hearing at 7:38 p.m. No one present requested to speak regarding the franchise application, and the hearing was closed.

B. Audience Participation

This is the place on the agenda where the public is invited to speak to the City Council on any issue. Those wishing to speak are reminded to sign in on the form provided.

Jack Smith, 6301 35th Way SE, Auburn
Mr. Smith is a member of the City of Auburn Planning Commission. He disagrees with the recommendation of the Planning Commission. He believes the City should not allow recreational marijuana retail stores in the City or the City should issue a business license to each retail store so the City can have input on what is allowed at each location.

Mayor Backus stated each retail location would be required to have a State of Washington business license.

Teressa Wreen, 2530 Forest Ridge Drive SE, Auburn
Ms. Wreen stated she has lived in the City of Auburn for 18 years. She expressed her concern with the garbage and weeds in the City rights-of way. She also expressed concerns regarding the aggressive panhandling at Safeway.

Mayor Backus stated both the Parks Department and Maintenance and Operations crews have been working on cleaning up the medians

around the City. The Police Department assigned two bike officers to the downtown area this summer.

C. Correspondence

There is no correspondence for Council review.

III. COUNCIL COMMITTEE REPORTS

A. Municipal Services

Chair Peloza reported the Municipal Services Committee met on August 25, 2014. The Committee reviewed Ordinance No. 6529 regarding animal control. The Committee also received a presentation on Ordinance No. 6525 regarding the City of Auburn Planning Commission recommendations regarding commercial recreational marijuana stores within the city limits, a briefing on the shopping carts and auto theft. The next regular meeting of the Municipal Services Committee is scheduled for September 8, 2014 at 3:30 p.m.

B. Planning & Community Development

Chair Holman reported the Planning and Community Development Committee meet on August 25, 2014. The Committee received a presentation from the Police Department on an emphasis patrol in the downtown area. The Committee forwarded to full Council for consideration Ordinance No. 6525 regarding recreational marijuana. The committee discussed the Urban Design Standards and received an Investing in Place presentation from Jeff Tate and Kevin Snyder. The next Planning and Community Development Committee meeting is September 8, 2014.

C. Public Works

Chair Osborne reported the Public Works Committee met earlier today. The Committee reviewed a right of way permit for the Veterans Day Parade, advertising for bids for the Burlington Northern Utility Crossing Project, the Annual Storm Repair and Replacement Project, and design standards for landscaping. The Committee also discussed Resolution No. 5095, Resolution No. 5098, Resolution No. 5099, capital project status report, infrastructure projects by others, and the action tracking matrix. The next regular meeting of the Public Works Committee is scheduled for September 15, 2014 at 3:30 p.m.

D. Finance

Chair Wales reported the Finance Committee met this evening at 5:00. The Committee reviewed claims vouchers in the amount of \$3.2 million and payroll vouchers in the amount of \$1.5 million. The Committee forwarded to full Council for consideration Resolution Nos. 5098 and 5099. The Committee also discussed Ordinance No. 6529 and Resolution Nos. 5093 and 5095, and the Airport Hangar

Development project. The next regularly scheduled Finance Committee meeting is September 15, 2014.

E. Les Gove Community Campus

The next Les Gove Community Campus Committee meeting is September 24, 2014.

F. Council Operations Committee

The next Council Operations Committee meeting is scheduled for September 22, 2014

G. Junior City Council

The next Junior City Council meeting is scheduled for September 15, 2014.

IV. CONSENT AGENDA

All matters listed on the Consent Agenda are considered by the City Council to be routine and will be enacted by one motion in the form listed.

A. Minutes of the August 6, 2014 Special Council Meeting

B. August 18, 2014 Regular Meeting Minutes

C. Claims Vouchers (Wales/Coleman)
Claims voucher 430217 through 430384 in the amount of \$2,064,146.34 and 3 wire transfers in the amount of \$262,043.27 and dated September 2, 2014.

D. Payroll Vouchers (Wales/Coleman)
Payroll check numbers 534920 through 534950 in the amount of \$271,413.58, electronic deposit transmissions in the amount of \$1,321,772.30 for a grand total of \$1,593,185.88 for the period covering August 14, 2014 to August 28th 2014.

E. Public Works Project No. CP1308 (Osborne/Snyder)
City Council to grant permission to advertise for bids for Project No. 1308, BNSF Utility Crossings

Deputy Mayor Wagner moved and Councilmember Peloza seconded to approve the Consent Agenda.

Deputy Mayor Wagner noted the consent agenda included claims, payroll vouchers and a Public Works project.

MOTION CARRIED UNANIMOUSLY. 7-0

V. UNFINISHED BUSINESS

There was no unfinished business.

VI. NEW BUSINESS

There was no new business.

VII. ORDINANCES

- A. Ordinance No. 6525 (Holman/Snyder)
An Ordinance of the City Council of the City of Auburn, Washington, amending sections 1.04.060, 5.10.040, 9.22.010, 18.02.020 and 18.07.010 of the City of Auburn Code, relating to enforcement of the State regulations regarding production, processing, and /or retail outlets and sales of marijuana, and terminating the moratorium implemented pursuant to Resolution No. 4992, passed on September 16, 2013

Councilmember Holman moved and Councilmember Wales seconded to adopt Ordinance No. 6525.

Councilmember Holman stated when the Planning and Community Development Committee reviewed this ordinance they chose to forward to full Council the option that follows the State of Washington law with no further City involvement.

Councilmember DaCorsi stated as a councilmember he took an oath that he would support the Constitution and Laws of the United States and the State of Washington. The voters in the State of Washington approved I-502. He believes if the Council chooses this option it will place a greater emphasis on the State for the licensing burden and enforcement. The City would act as the enforcement entity, he would like to have any enforcement burden tracked by the City.

Councilmember Peloza thanked the Planning Commission and City staff for their work on this issue. He stated he would not vote for this ordinance because there are too many uncertainties between the State and Federal laws. He stated the City should enact a moratorium to allow the State Legislature time to create new laws for this issue. He does not believe a vote of 53% is a mandate by the voters. He stated some concerns of his are that the City receives no tax revenue from the sale of recreational marijuana, crime will rise and marijuana impairs people. There are too many conflicts within the law.

Councilmember Wagner stated he does not see the urgency to pass this ordinance. The State laws are not adequate for enforcement. He expected the State to move faster with defining impaired driving. He believes the City should have the State issue licenses but wants to allow additional time for clarification of the laws.

MOTION CARRIED. 5 - 2. Deputy Mayor Wagner and Councilmember Peloza voted no.

- B. Ordinance No. 6529 (Peloza/Heid)
An Ordinance of the City Council of the City of Auburn, Washington, amending sections 6.01.050, 6.01.070 and 6.01.100 of the Auburn City Code, relating to animal control

Councilmember Peloza moved and Councilmember Osborne seconded to adopt Ordinance No. 6529.

MOTION CARRIED UNANIMOUSLY. 7-0

VIII. RESOLUTIONS

- A. Resolution No. 5094 (Holman/Snyder)
A Resolution of the City Council of the City of Auburn, Washington, extending the moratorium established by Resolution No. 4992 on acceptance or processing of applications for business licenses and other licenses, permits and approvals for marijuana/cannabis related businesses and uses

Councilmember Holman moved and Councilmember Wales seconded to withdraw Resolution No. 5094 from the agenda.

MOTION CARRIED UNANIMOUSLY. 6-1. Councilmember Peloza voted no.

- B. Resolution No. 5095 (Osborne/Snyder)
A Resolution of the City Council of the City of Auburn, Washington, authorizing the Mayor to execute an agreement with the City of Kent regarding Auburn's S 277th Street Corridor Project and jurisdiction over the South 277th Street Corridor

Councilmember Osborne moved and Councilmember Peloza seconded to adopt Resolution No. 5095.

Deputy Mayor Wagner expressed support for this portion of 277th Street under one jurisdiction. His concern is the additional street maintenance cost. He requested the City try to amend the agreement with the City of Kent to include funds for street maintenance.

Councilmember Wales stated 277th Street serves the residents of Lea Hill. This area has a great deal of congestion that the project will help alleviate.

Councilmember Osborne stated the agreement ends upon completion of the project. Delaying the project may put funding sources in jeopardy.

Deputy Mayor Wagner stated the City has worked with the City of Kent in the past on projects and his concern is the ongoing maintenance of the street.

Councilmember Pelosa asked if the City delays the vote would it delay the project. Director Snyder indicated clarification of ownership is important to secure funding for the project. The improvements to the road will be important to the economic development of the area. Staff can maintain the street with the current staffing level. Delaying the vote could impact the project with both grant funding from Pierce County Regional Council and working with outside jurisdictions, which takes a great deal of time.

Deputy Mayor Wagner withdrew his opposition to the resolution.

MOTION CARRIED UNANIMOUSLY. 7-0

C. Resolution No. 5098

A Resolution of the City Council of the City of Auburn, Washington, authorizing the Mayor to execute a lease agreement between the City of Auburn and, Seattle SMSA Limited Partnership, D/B/A Verizon Communications, for use of City facilities

Councilmember Wales moved and Councilmember Holman seconded to adopt Resolution No. 5098.

MOTION CARRIED UNANIMOUSLY. 7-0

D. Resolution No. 5099

A Resolution of the City Council of the City of Auburn, Washington, opposing closure of the King County Public Health Clinic in Auburn

Councilmember Wales moved and Councilmember Holman seconded to adopt Resolution No. 5099.

Mayor Backus asked City Attorney Heid to read information regarding King County Public Health.

- Resolution No. 5099 expresses the Auburn City Council's opposition to the closure of the King County Health district clinics in South King County, both in Auburn and Federal Way.

- King County is facing an approximately \$15 million annual budget deficit and, beginning in 2015, is proposing closure of the Auburn Public Health Clinic, as well as a clinic in Federal Way.

- Auburn is the 15th largest city in the state, with a population of 74,630 residents.

- Clients of the Auburn clinic are overwhelmingly low-income and people of color with no medical insurance.

- Auburn is a highly diverse community socioeconomically, and the City as well as community have strong concerns for the disadvantaged members of the community, particularly families with

small children.

- Auburn commits significant resources annually to providing safety net services and programs that help lift people out of poverty.
- Auburn's Human Services efforts are leveraged with partnerships with numerous community social services organizations, including, but not limited to, The Auburn Food Bank, Auburn Youth Resources, and Valley Cities.
- The closure of the Auburn clinic will eliminate necessary services for 10,700 low-income clients, primarily women and children, that are critical to reducing poverty, supporting maternal and infant health, and providing family nutrition.
- The proposal to close both the Auburn and Federal Way clinics will leave the southernmost cities in King County – the 7th and 5th largest cities in the County respectively - unserved by a public health clinic, thereby imposing a greater and disproportionate burden on low-income residents of Auburn and Federal Way to travel to the City of Kent for health services.
- In 2013, the Auburn clinic served 3,000 clients with Maternity Support Services and Infant Case Management for low-income pregnant women and infants in their first year of life.
- And in 2013, the Auburn clinic served 5,700 clients with Women, Infants and Children nutrition services for low-income pregnant women and children age five and younger.
- Also, in 2013, the Auburn clinic provided 2,000 clients with family planning services, reducing unplanned pregnancies, teen pregnancies, and sexually transmitted diseases.
- Closing the Auburn clinic will eliminate 33 full-time equivalent jobs.
- Clients of the Auburn clinic are overwhelmingly low-income and people of color with no medical insurance.
- While the City of Kent has two public health clinics, many Auburn and Federal Way public health clients are unlikely to be able to travel to Kent for public health services.
- Low-income residents have fewer mobility choices and are dependent on public transit, and available public transit options are expected to be further restricted by proposed Metro service cuts, including the elimination and reduction of routes between Auburn and Kent, which compounds the burden of travel for low-income residents.

- In 2007, King County adopted the King County Public Health Operational Master Plan which includes as one of four Guiding Principles, "Driven by Social Justice: ... Public health will be a voice for the needs of the weak, the poor, minorities and the disenfranchised."
- King County further emphasized the importance of social justice regarding health in 2008 by instigating the King County Equity & Social Justice Initiative, which emphasizes the importance of equal access to basic health care; and then adopted in 2010 the King County Strategic Plan 2010-2014: Working Together for One King County, which emphasizes equitable opportunities for all people and communities.
- All of these factors support the basis for opposition to the closure of the King County Health District clinics in Auburn and Federal Way.

MOTION CARRIED UNANIMOUSLY. 7-0

IX. REPORTS

At this time the Mayor and City Council may report on significant items associated with their appointed positions on federal, state, regional and local organizations.

A. From the Council

Deputy Mayor Wagner reported he attended the Pierce County Regional Council meeting and the opening of a thrift store that benefits the Auburn Valley Humane Society.

Councilmember DaCorsi reported he attended the Congressional Roundtable on Youth Homelessness.

Councilmember Pelloza reported he attended the Airport Advisory Board meeting, the King County Water Pollution Abatement Advisory Committee meeting, and the Association of Washington Cities ad hoc Rate Mobility Rail Committee meeting.

Councilmembers Osborne, Trout, Wales and Holman had no report.

B. From the Mayor

Mayor Backus reported she attended the New Educator Breakfast, the 35th Community Emergency Response Team (CERT) Training graduation, the Auburn International Farmers Market Chili Cook-Off, an interview with Puget Sound Regional Council Committee on regional transit access, a meeting at Health Point, the Sound Cities ad hoc committee meeting on transit quality and the Big 5 Sports ribbon cutting.

X. EXECUTIVE SESSION

At 8:54 p.m., Mayor Backus recessed the regular meeting for a five minute intermission and then to executive session for approximately twenty minutes for the purpose of discussing pending/potential litigation pursuant to RCW 42.30.100(1)(i). Department Directors and staff members required for the executive session included City Attorney Daniel B. Heid, Community Development and Public Works Director Kevin Snyder, Director of Administration Michael Hursh and Finance Director Shelley Coleman. It was indicated no Council action would follow the executive session.

At 9:20 p.m., the executive session was extended an additional ten minutes. At 9:33 p.m., the executive session was extended an additional five minutes.

The regular meeting was reconvened at 9:36 p.m.

XI. ADJOURNMENT

There being no further business to come before the Council, the meeting adjourned at 9:36 p.m.

APPROVED this _____ day of September, 2014.

NANCY BACKUS, MAYOR

Shawn Campbell, Deputy City Clerk



AGENDA BILL APPROVAL FORM

Agenda Subject:

Claim Vouchers

Date:

September 10, 2014

Department:

Finance

Attachments:

No Attachments Available

Budget Impact:

\$0

Administrative Recommendation:

City Council approve claims vouchers.

Background Summary:

Claims voucher numbers 430385 through 430559 in the amount of \$3,550,727.11 and three wire transfers in the amount of \$708,217.47 and dated September 15, 2014.

Reviewed by Council Committees:

Finance

Councilmember: Wales

Staff: Coleman

Meeting Date: September 15, 2014

Item Number: CA.B



AGENDA BILL APPROVAL FORM

Agenda Subject:

Payroll Vouchers

Date:

September 10, 2014

Department:

Finance

Attachments:

No Attachments Available

Budget Impact:

\$0

Administrative Recommendation:

City Council approve payroll vouchers.

Background Summary:

Payroll check numbers 534951 through 534981 in the amount of \$833,860.67 and electronic deposit transmissions in the amount of \$1,280,862.61 for a grand total of \$2,114,723.28 for the period covering August 28, 2014 to September 10, 2014.

Reviewed by Council Committees:

Finance

Councilmember: Wales

Staff: Coleman

Meeting Date: September 15, 2014

Item Number: CA.C



AGENDA BILL APPROVAL FORM

Agenda Subject:

Public Works Project No. CP1208

Date:

September 10, 2014

Department:

Public Works

Attachments:

[Budget Status Sheet](#)

[CP1208 Matrix](#)

[Vicinity Map](#)

Budget Impact:

\$0

Administrative Recommendation:

City Council approve award of Contract No. 14-10, to the Lowest Responsible Bidder for Project No. CP1208 Sewer Pump Station Improvements.

Background Summary:

This project will construct various improvements to 11 of the City's sanitary sewer pump stations including upgrading the ability of maintenance staff to access and maintain wet wells, installing new back-up generator systems, installing site improvements such as fencing, lighting, and equipment shelters, and establishing cathodic protection systems. See the attached improvement matrix for specific improvements proposed at each pump station site.

Because the bid opening was held on September 9, 2014, there was not adequate time for staff to compile the bid tabulation to include in the agenda packet. A revised agenda bill specifying the contractor and contract amount will be distributed to the Committee and Council at their meetings scheduled for September 15, 2014.

Updated information regarding the budget status will be presented with the revised agenda bill.

A project increase of \$52,549.00 within the Sewer Fund is anticipated; however it will not require a budget adjustment since it is anticipated that the budgeted expenditures in the Sewer Fund will not be exceeded this year.

Reviewed by Council Committees:

Public Works

Councilmember: Osborne

Staff: Snyder

Meeting Date: September 15, 2014

Item Number: CA.D

BUDGET STATUS SHEET

Project No: CP1208	Project Title: Sewer Pump Station Improvement Project
---------------------------	--

Project Manager: Kim Truong

Initiation Date: 9/3/13

Advertisement Date: 5/5/14

Award Date: _____

- ☐ Project Initiation

☐ Permission to Advertise

☒ Contract Award

☐ Change Order Approval

☐ Carry Forward to 2014

Date: Sept. 8, 2014

The "Future Years" column indicates the projected amount to be requested in future budgets.

Funds Budgeted (Funds Available)

Funding	Prior Years	2012	2013	2014	Total
431 Fund - Sewer		29,018	80,134	990,848	1,100,000
Total	0	29,018	80,134	990,848	1,100,000

Estimated Cost (Funds Needed)

Activity	Prior Years	2012	2013	2014	Total
Design Engineering - City Costs		12,032	27,445	57,351	96,828
Design Engineering - Consultant Costs		16,986	52,689	22,404	92,078
Construction Estimate				905,405	905,405
Project Contingency				40,000	40,000
Easement Acquisition				3,237	3,237
Construction Engineering - City Costs				10,000	10,000
Construction Engineering - Consultant Costs				5,000	5,000
Total	0	29,018	80,134	1,043,397	1,152,549

431 Sewer Budget Status

	Prior Years	2012	2013	2014	Total
*431 Funds Budgeted ()	0	(29,018)	(80,134)	(990,848)	(1,100,000)
431 Funds Needed	0	29,018	80,134	1,043,397	1,152,549
*431 Fund Project Contingency ()	0	0	0	0	0
431 Funds Required	0	0	0	52,549	52,549

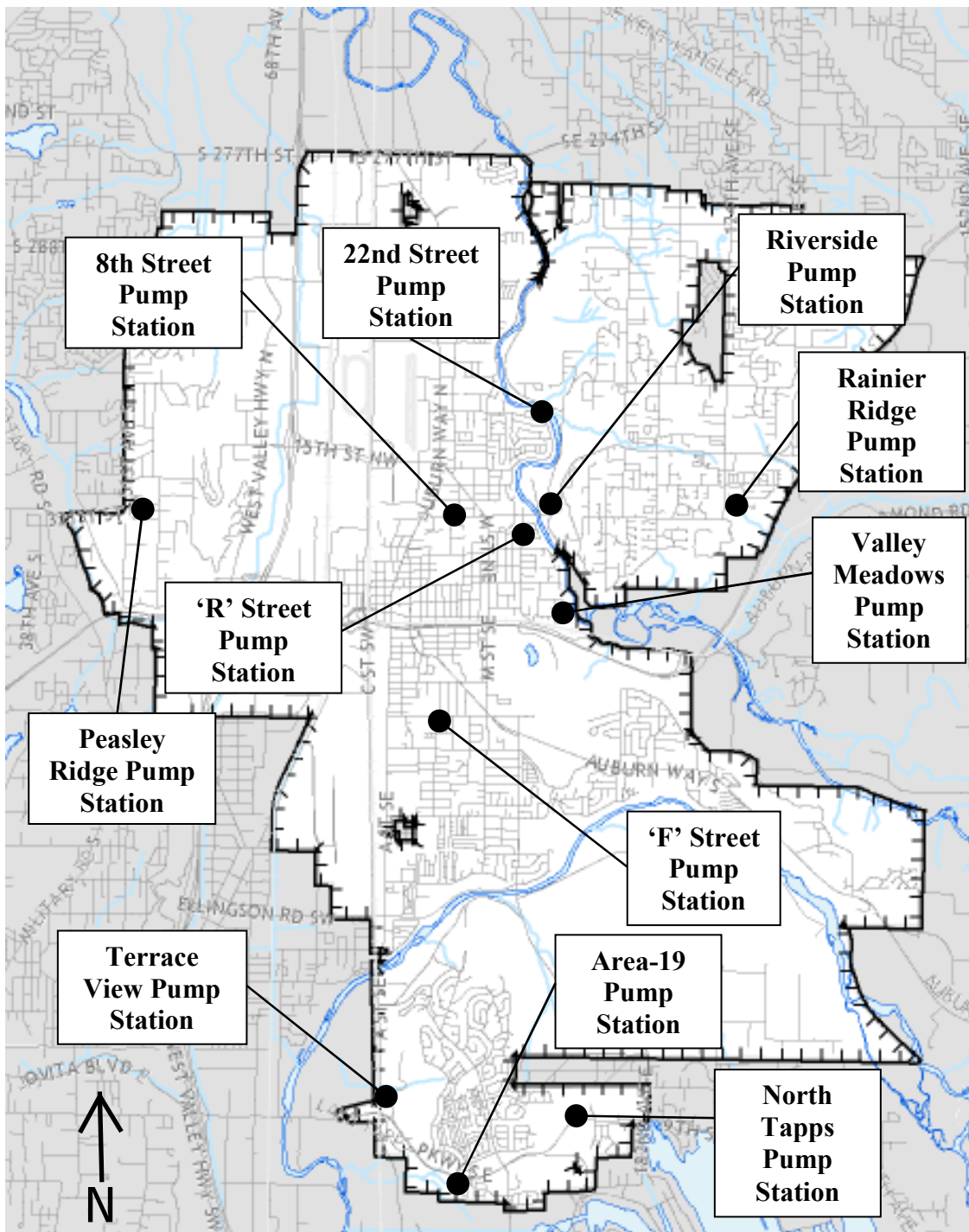
* (#) in the Budget Status Sections indicates Money the City has available.

CP1208
Sewer Pump Station Improvement Matrix

	Generator System	Cathodic Protection System	Wet Well Access Improvements	Site Improvements		
				Fencing	Shelter	Lighting
22nd Street NE	X	X	X	X	X	X
8th Street NE	X	X	X	X	X	X
Area 19		X				
F Street SE		X	X			
North Tapps		X				
Peasley Ridge		X				
R Street NE	X	X	X	X	X	X
Rainier Ridge		X	X			
Riverside		X				
Terrace View		X				
Valley Meadows	X	X	X	X	X	X

Sewer Pump Station Improvements Project

Vicinity Map





AGENDA BILL APPROVAL FORM

Agenda Subject:

Public Works Project No. CP1322

Date:

September 10, 2014

Department:

Public Works

Attachments:

[Budget Status Sheet](#)

[Vicinity Map](#)

Budget Impact:

\$0

Administrative Recommendation:

City Council approve award of Contract No. 14-16, to the Lowest Responsible Bidder for Project No. CP1322, Annual Traffic Signal Improvements.

Background Summary:

The purpose of this project is to construct traffic signal system improvements including upgrades and repairs to vehicle detection systems, installation of accessible pedestrian pushbuttons, and upgrading traffic signal systems by installing flashing yellow arrow signal heads, installing auxiliary signal heads, and installing signal head backplates, at various locations throughout the City. See attached Vicinity Map for details regarding specific improvements and locations.

This project included a procurement phase during which equipment that required long lead times, or items that would be installed by City forces, were purchased by the City. Items not installed by City forces will be installed by the Contractor during the construction phase of the project.

Because the bid opening was held on September 9, 2014, there was not adequate time for staff to compile the bid tabulation to include in the agenda packet. A revised agenda bill specifying the Contractor and contract amount will be distributed to the Committee and Council at their meetings scheduled for September 15, 2014.

Updated information regarding the budget status will be presented with the revised agenda bill.

Funding for this project is from the Capital Signal Equipment and Improvement Funds (328 Funds). See the attached Budget Status Sheet for additional details.

A project budget contingency of \$54,467.00 remains in the 328 Fund.

Reviewed by Council Committees:

Public Works

Councilmember: Osborne

Staff: Snyder

Meeting Date: September 15, 2014

Item Number: CA.E

BUDGET STATUS SHEET

Project No: CP1322	Project Title: Annual Traffic Signal Improvements
Project Manager: Luis Barba	Date: September 8, 2014

Initiation Date: 1/21/2014
 Advertisement Date: 8/18/2014
 Award Date: _____

- | | |
|----------------------------------|----------------------------------|
| ☐ | Project Update |
| ☐ | Permission to Advertise |
| ☒ | Contract Award |
| ☐ | Change Order Approval |
| ☐ | Contract Final Acceptance |

The "Future Years" column indicates the projected amount to be requested in future budgets.

Funds Budgeted (Funds Available)

Funding	2013 (Actual)	2014	Future Years	Total
328 Fund - Capital Signal Equipment Funds	0	45,234		45,234
328 Fund - Capital Signal Improvement Funds	0	324,267		324,267
Total	0	369,501		369,501

Estimated Cost (Funds Needed)

Activity	2013 (Actual)	2014	Future Years	Total
Design Engineering - City Costs*				
Equipment Procurement	0	142,885	0	142,885
Construction Estimate	0	143,457	0	143,457
Project Contingency (20% of Construction Est.)	0	28,691	0	28,691
Construction Engineering - City Costs*				
Total	0	315,034	0	315,034

*Engineering costs are charged to the Engineering Budget and not shown here.

328 Capital Improvement Budget Status

	2013 (Actual)	2014	Future Years	Total
**328 Funds Budgeted ()	0	(369,501)		(369,501)
328 Funds Needed	0	315,034	0	315,034
**328 Fund Project Contingency ()	0	(54,467)		(54,467)
328 Funds Required	0	0		0

** (#) in the Budget Status Sections indicates money the City has available.

**S. 277TH ST/FRONTAGE RD
VEHICLE DETECTION UPGRADE**

**AUBURN WAY N/37TH ST NE
TRAFFIC SIGNAL CABINET**

**W VALLEY HWY/15TH ST NW
TRAFFIC SIGNAL CABINET**

**AUBURN WAY N/15TH ST NE
VEHICLE DETECTION UPGRADE
SIGNAL BACKPLATES**

**AUBURN WAY/8TH ST NE
ADA PUSHBUTTONS**

**AUBURN AVE/4TH ST NE
VEHICLE DETECTION LOOPS**

**AUBURN AVE/2ND ST SE
ADA PUSHBUTTONS**

**AUBURN WAY/MAIN ST
ADA PUSHBUTTONS
BATTERY BACKUP COMPONENTS**

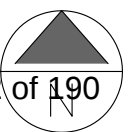
**3RD ST SE/A ST SE
RELOCATE TRAFFIC SIGNAL**

**AUBURN WAY S/2ND ST SE
ADA PUSHBUTTONS**

**A ST SE/17TH ST SE
BATTERY BACKUP COMPONENTS**

**15TH ST SW CORRIDOR
VEHICLE DETECTION UPGRADES
SIGNAL BACKPLATES**

**LAKELAND HILLS WAY SE/LAKE TAPPS PKWY SE
FLASHING YELLOW ARROW
ADA PUSHBUTTONS
SIGNAL BACKPLATES**





AGENDA BILL APPROVAL FORM

Agenda Subject:

Public Works Consultant Agreement No. AG-C-453

Date:

September 10, 2014

Department:

Public Works

Attachments:

[Scope of Services](#)

Budget Impact:

\$0

Administrative Recommendation:

City Council grant permission to enter into Consultant Agreement No. AG-C-453 with FCS Group for preparation of the Financial Chapters in the Water, Sewer, and Storm Water Comprehensive Plans.

Background Summary:

Originally it was intended to utilize City financial staff to provide the financial analysis for each utility comprehensive plan. Recent changes in staff, along with current staff work load for preparing the budget, require outside assistance to complete this task. FCS Group is currently preparing the System Development Charges and Cost of Service Rate Study, which makes them suitable to prepare the financial chapters of the comprehensive plans.

The Not-to-be-Exceeded amount for this agreement is \$59,960.00, with costs split evenly between the Water, Sanitary Sewer, and Storm Water Utilities.

Funds for the Water Utility portion are available in the Water Fund, Professional Services line item. Funds for the Sewer Utility portion are available in the Sewer Fund, Professional Services line item. Funds for the Storm Utility portion are available in the Storm Drainage Fund, Professional Services line item.

Reviewed by Council Committees:

Public Works

Councilmember: Osborne

Staff: Snyder

Meeting Date: September 15, 2014

Item Number: CA.F

CITY OF AUBURN

UTILITY FINANCIAL PLANS/CHAPTERS

SCOPE OF SERVICES

The following scope of services identifies the task FCS GROUP will perform in developing the financial programs / chapters for the City's water, sewer, and stormwater comprehensive system plans. We will coordinate as necessary with the City's consulting engineers, Brown and Caldwell (sewer/storm) and Carollo (water).

Task 1: Data Collection / Review

Prepare an initial data request identifying financial and operational documents pertinent to the performance of the study. It is anticipated that the consulting engineers will provide the Capital Improvement Programs and relevant draft system plan chapters. Review, analyze, and validate data as necessary for use in formulating the technical analyses. Follow up with requests for any additional items or explanations as necessary.

Task 2: Historical Financial Performance Review

Review and document the financial operations (revenue and expenses) and financial condition (assets and liabilities) of the utilities for the previous six-year period. Noteworthy financial trends will be summarized.

Task 3: Fiscal Policy Review

Review the City's current fiscal policies for operating and capital reserves, system reinvestment funding, debt management, and debt service coverage. In particular, this will include review of the City's draft reserve policy, and incorporation into the analysis as necessary.

Task 4: Capital Financing Plan

Evaluate capital funding options, and develop a capital financing plan for the six-year and 20-year Capital Improvement Programs (CIPs). The analysis will include a forecast of capital funding needs, borrowing requirements, and associated cash flows and cash balances over the study period. Evaluate and recommend an appropriate balance of funding from cash, SDCs, bonds, low interest loans and/or other available revenue sources. Depending upon preliminary results of customer impacts, FCS GROUP will work closely with the City and its consulting engineers to perform sensitivity analyses for alternative scheduling of capital projects in order to smooth customer rate impacts. The budget provides for up to three (3) scenarios.

Task 5: Operating Forecast

The City's current utility operating budgets will be used as the baseline for forecasting ongoing operating and maintenance (O&M) costs, debt service, and other financial obligations of the utilities over the six-year and 20-year study period. Incorporate engineering planning growth forecasts and establish economic factors for cost escalation. Integrate additional O&M expenses, if any, resulting from the CIP and any other known changes in operational requirements.

Task 6: Revenue Needs Assessment

Integrate fiscal policies, capital financing impacts and the operating forecast, and develop an operating cash flow for each utility over the six-year and 20-year study periods. Compare forecasted financial

requirements against forecasted revenue under existing rates to determine annual and cumulative revenue adjustments needed to ensure financial sustainability over time.

Task 7: Rate Forecast & Affordability Test

Develop a rate forecast for the six-year period. Apply annual rate adjustments to the City's existing utility structures "across-the-board" or equally to each rate class and rate charge (fixed and variable). Note: this scope does not include changes to the City's existing utility rate structures. The Financial Chapters will include narrative discussion of potential rate structure enhancements under evaluation in the utility rate studies currently underway.

Perform an affordability test as an indication of a residential customer's ability to pay the existing and forecasted rates. This includes a median household income index analysis and comparison of the utility systems' existing and forecasted average residential bills to 1.5% of the median household income. This test will be conducted for the six-year and 20-year study periods.

Task 8: System Development Charge (SDC) Update

Update the SDCs developed as part of the 2013/2014 utility rate studies to incorporate changes in the CIPs and associated system capacities. We will follow the methodology outlined for Approach A (Average Integrated) for calculation of the charges, unless otherwise directed by the City. Work closely with the City's consulting engineers to determine the appropriate allocation of each capital project to the categories of (a) repair & replacements and (b) upgrades and expansions. Calculate the maximum allowable SDC per customer equivalent and develop a schedule of SDCs. Phase in strategies will also be updated, as warranted.

Task 9: Meetings

Attend meetings to review findings with City staff / consulting engineers and to present findings to committees or Council. It is anticipated that separate meetings will be held for sewer/storm results and water results. Two (2) meetings are reserved for sewer/storm and two (2) meetings for water, for a total of four (4) meetings.

Task 10: Documentation

Craft the draft Financial Chapters for Brown and Caldwell / Carollo and City staff review. An electronic copy of the draft Financial Chapters and Excel-based tables will be provided to the engineers to incorporate into the system plan documents. Incorporate requested changes, as appropriate, and submit the final version of the Financial Chapters.

Schedule

The schedule will be coordinated with the City and its consulting engineers. For sewer/storm, 45 to 60 days from receipt of the final CIPs are needed to complete the technical analyses, and up to a total of 90 days to conduct meetings and presentations and document study results. For water, 30 days from receipt of the final CIP are needed for the technical analysis, and up to a total of 60 days for meetings and presentations. We expect to begin the water financial program in early September and sewer/storm in mid-October. Upon notice to proceed (NTP), we will begin work on data collection, historical reviews, operating forecasts, etc. in advance of the final CIP. Assuming NTP on or about September 5, 2014, we expect study completion by March 31, 2015.

Budget

FCS GROUP will charge a lump sum fee of \$59,960 for the Scope of Work described above. This fee assumes completion of work by March 31, 2015.



AGENDA BILL APPROVAL FORM

Agenda Subject:

Ordinance No. 6519

Date:

July 29, 2014

Department:

Administration

Attachments:

[ORD6519 and ORD6524](#)

Budget Impact:

\$0

Administrative Recommendation:**Background Summary:**

Ordinance No. 6519 was tabled at the July 21, 2014 City Council meeting to the August 18, 2014 City Council meeting. There is a pending motion for adoption of Ordinance No. 6519.

Reviewed by Council Committees:

Finance

Councilmember:**Staff:**

Heid

Meeting Date: September 15, 2014

Item Number: UB.B

ORDINANCE NO. 6 5 1 9

**AN ORDINANCE OF THE CITY COUNCIL THE CITY OF
AUBURN, WASHINGTON, CREATING A NEW CHAPTER
2.92 OF THE AUBURN CITY CODE, PROVIDING FOR A
CODE OF ETHICS**

WHEREAS, state law, and specifically, Chapter 42.23 of the Revised Code of Washington (RCW), provides a Code of Ethics for Municipal Officers; and

WHEREAS, state law also provides a separate ethics code for state officials and employees found in Chapter 42.52 RCW; and

WHEREAS, the provisions of these two RCW Chapters set the framework for ethics and public service applicable to city officials, however, the two chapters are not completely consistent in all measures; and

WHEREAS, to address questions and issues related to these two chapters and to assist in defining provisions and, to some extent reconciling, inconsistencies between them, it is appropriate for the City of Auburn to adopt and implement its own Code of Ethics.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF AUBURN, WASHINGTON, DO ORDAIN as follows

Section 1. Adoption of New Chapter to City Code. A new chapter 2.92 of the Auburn City Code, providing for a Code of Ethics, is created to read as follows:

**Chapter 2.92
CODE OF ETHICS**

Sections:

- 2.92.010 Policy.
- 2.92.020 Definitions.
- 2.92.030 Prohibited conduct.
- 2.92.040 Ethical standards.
- 2.92.050 No right of action created – Effective date.
- 2.92.060 Ethics officer.
- 2.92.070 Advisory opinions.
- 2.92.080 Complaint procedure.

2.92.010 Policy.

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A. Purpose. The Auburn city council has adopted herein a code of ethics for city-elected officials and city appointed officers and officials to promote public confidence in the integrity of local government and its fair operation. This code of ethics will provide the basis for education and training for city officials to ensure that the highest ethical standards and best ethical practices will be followed.

B. Intent. The citizens and businesses of Auburn are entitled to have fair, ethical and accountable local government that has earned the public's full confidence. It is further the intent that city officials be permitted to fulfill their duties to represent the public to the greatest extent possible unless circumstances exist where such engagement is impermissible. Nothing in this chapter is intended to reduce, limit, or restrict the pool of available candidates for service on the council or service on council-appointed public bodies, all of which are either part-time or volunteer positions. It is in the public interest to ensure that the provisions of this chapter do not create barriers to citizen public service. In keeping with the City of Auburn's commitment to excellence, the effective functioning of democratic government therefore requires that:

1. Public officials, both elected and appointed, comply with the laws and policies affecting the operations of government;
2. Public officials be independent, impartial and fair in their actions;
3. Public office be used for the public good, not for personal gain;
4. Public deliberations and processes be conducted openly, unless legally confidential, in an atmosphere of respect and civility; and
5. There needs to be compatibility between City ethical codes and the ethic codes of state law.

2.92.020 Definitions.

A. "Official" means a city-elected official and a city-appointed official, officer or employee, and includes members of appointed city boards and commissions and other task forces, groups or committees.

B. "Quasi-judicial actions" means those actions of the city council/legislative body, planning commission, hearing examiner, or other City boards which determine the legal rights, duties, or privileges of specific parties in a hearing or other contested case proceeding.

C. "Relative" means spouse, domestic partner, child, step-child, parent, step-parent, parent-in-law and sibling.

D. Definitions Incorporated by Reference. The definitions included in and referenced by sections 42.23.020 and 42.52.010 of the Revised Code of Washington (RCW), as hereinafter amended, are incorporated herein unless the language and context hereof clearly excludes the application thereof, provided that such definitions may nevertheless guide in the application and interpretation thereof.

2.92.030 Prohibited conduct.

A. Conflicts of Interest. Officials shall not participate in quasi-judicial or site-specific land use city decisions, the purchase or condemnation of property, or city

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decisions involving the awarding of a grant or contract in which any of the following has a direct or indirect interest:

1. The official;
2. A relative;
3. An individual with whom the official resides; or
4. An entity that the official serves as an officer, director, trustee, partner or employee.

B. Officials shall abstain from participating in deliberations and decision-making where conflicts exist. RCW 42.23.040 shall apply to conflicts or potential conflicts with respect to remote interests in city decisions involving the awarding of a contract.

C. Misuse of Public Position or Resources. Except for infrequent use at little or no cost to the city, officials shall not use public resources that are not available to the public in general, such as city staff time, equipment, supplies or facilities, for other than a city purpose.

D. Representation of Third Parties. Except in the course of official duties, officials shall not appear on behalf of the financial interests of third parties before the bodies on which the officials serve or in interaction with the body's assigned staff. Further, the members of the city council shall not appear on behalf of the financial interest of third parties before the council, or any other City body, board or commission, in any proceeding of the city, or in interaction with staff.

E. Solicitation of Charitable Contributions. No official may directly solicit charitable contributions from city employees.

F. Gifts and Favors. Officials shall not knowingly use their public position to secure any special advantage, services or opportunities for personal or family gain, where such services, opportunities or gains are not available to the public in general. Officials may also not solicit or receive any thing of monetary value from any person or entity where the thing of monetary value has been solicited or received or given, or where it would appear to a reasonable person to have been solicited or received or given, with intent to give or obtain consideration or influence as to any action by the official in his or her official capacity; provided, that nothing shall prohibit campaign contributions which are solicited or received and reported in accordance with applicable law. They shall not accept or solicit any gifts, favors or promises of future benefits except as follows:

1. No official may accept gifts, other than those specified in subsection (F)(2) of this section, with an aggregate value in excess of Fifty Dollars (\$50.00) from a single source in a calendar year, or a single gift from multiple sources with a value in excess of Fifty Dollars (\$50.00) in accordance with RCW 42.52.150(1); provided, that if the Fifty Dollars (\$50.00) limit in RCW 42.52.150(1) is amended, this section shall be deemed to reflect the amended amount. For purposes of this section, "single source" means any person, corporation, or entity, whether acting directly or through any agent or other intermediary. "Single gift" includes any event, item, or group of items used in conjunction with each other or any trip including transportation, lodging, and attendant costs. The value of gifts given to an official's family member or guest shall be attributed

to the official for the purpose of determining whether the limit has been exceeded, unless an independent business, familial, or social relationship exists between the donor and the official, family member or guest.

2. The following items are presumed not to influence the vote, action, or judgment of the official, or be considered as part of a reward for action or inaction, and may be accepted without regard to the limit established by subsection (F)(1) of this section:

- (a) Unsolicited flowers, plants and floral arrangements;
- (b) Unsolicited advertising or promotional items of nominal value, such as pens and note pads;
- (c) Unsolicited tokens or awards of appreciation in the form of a plaque, trophy, desk item, wall memento, or similar item;
- (d) Unsolicited items received by an official for the purpose of evaluation or review, if the official has no personal beneficial interest in the eventual use or acquisition of the item;
- (e) Informational materials, publications or subscriptions related to the recipient's performance of official duties;
- (f) Food and beverages consumed at hosted receptions where attendance is related to the official's duties for the city;
- (g) Admission to, and the cost of food and beverages consumed at, events sponsored by or in conjunction with a governmental entity or organization;
- (h) Unsolicited gifts from dignitaries from another state or a foreign country which are intended to be personal in nature, Provided that if the value (identified or estimated) exceeds \$50, the gift shall be the property of the city's;
- (i) Food and beverages on infrequent occasions in the ordinary course of meals where attendance by the official is related to the performance of official duties; and
- (j) Any gift which would have been offered or given to the official if he or she were not an official.

3. The presumption in subsection (F)(2) of this section is rebuttable and may be overcome based on the circumstances surrounding the giving and acceptance of the item.

G. The provisions of this Section and of this Chapter do not prohibit the City from funding, or contributing to the funding for, an event, activity, or function at which public officials attend and/or in which they participate, even if there is a value of such attendance or participation where, and so long as, the city council finds that there is a corresponding benefit to the City to have its public officials attend or participate, and where city council expressly approves funding, or the contribution towards funding thereof.

H. Confidential Information. Officials shall not knowingly disclose any confidential information gained by reason of their official position for other than a city purpose, and officials shall not knowingly use such information for his or her personal or familial benefit, or engage in business or professional activity that the officer might

reasonably expect would induce him or her by reason of his or her position with the City to disclose such confidential information. "Confidential information" means:

1. Specific information, rather than generalized knowledge, that is not available to members of the public; and
2. Information that is made and/or recognized as confidential by law.

2.92.040 Ethical standards.

A. In addition to Section 2.92.030 hereof, which shall be administered by the ethics officer, officials shall comply with the following standards:

1. **Compliance with Other Laws.** Officials shall comply with federal, state and city laws in the performance of their public duties. These laws include, but are not limited to: the United States and Washington Constitutions; laws pertaining to conflicts of interest, election campaigns, financial disclosures and open processes of government; and city ordinances and policies. See Appendix A of this section.

2. Officials shall comply with the requirements of RCW 42.17.020 through 42.17.060 regarding contract interests. As required by RCW 42.17.750, no official shall knowingly solicit or encourage, directly or indirectly, any political contribution from any city employee. Except under limited circumstances described in RCW 42.17.130, no official may use or authorize the use of the facilities of the city for the purpose of assisting a campaign for the election of any person to office, or form the promotion of or opposition to any ballot proposition in a manner not available to the general public on the same terms.

B. Officials are also encouraged to comply with the following standards:

1. **Personal Integrity.** The conduct of officials must be above reproach and avoid even the appearance of impropriety. Officials shall refrain from abusive conduct, threats of official action, personal accusations or verbal attacks upon the character or motives of other members of council, boards and commissions, the staff or public. Officials shall maintain truthfulness and honesty and not compromise themselves for advancement, honor, or personal gain. Additionally, officials shall not directly or indirectly induce, encourage or aid anyone to violate this code of ethics and it is incumbent upon officials to make a good faith effort to address apparent violations of this code of ethics.

2. **Working for the Common Good.** Recognizing that stewardship of the public interest must be their primary concern, officials will work for the common good of the people of Auburn and not for any private or personal interest, and they will ensure fair and equal treatment of all persons, claims and transactions coming before the city council, boards and commissions.

3. **Respect for Process.** Officials shall perform their duties in accordance with the processes and rules of order established by the city council and boards and commissions governing the deliberation of public policy issues, meaningful involvement of the public, and implementation of policy decisions of the city council by city staff.

4. **Commitment to Transparency.** Transparency, openness and accountability are fundamental values of the city and are also required by the laws of the state of Washington. The public has a right to inspect and copy public records

unless exempt by law from disclosure. All materials relating to the conduct of city government that are prepared, possessed, used or retained by any official, including email and other electronic records, are subject to requirements for retention, protection and disclosure. Officials shall not discard, damage or destroy the original of any public document or record unless the City has fully complied with the record retention schedules established under Chapter 40.14 RCW. (Officials may assume that all copies of materials received from city staff have been handled in conformity with state law and such copies do not need to be retained.) Officials shall also not discard, damage or destroy documents, hard copy or electronic, received by the official unless in compliance with state law. In accordance with the requirements of state law officials shall promptly provide any records requested by the public records officer in response to a disclosure request under the Public Records Act, Chapter 42.56 RCW. It is the responsibility for the public records officer together with the city attorney to decide which records meet the definition of "public record" and whether or not such records are exempt from disclosure; officials must not take it upon themselves to decide whether a record meets the definition of a public record, that a record is exempt from disclosure, or to otherwise conceal a record.

5. Conduct of Public Meetings. Officials shall prepare themselves for public issues; listen courteously and attentively to all public discussions before the body; and focus on the business at hand. They shall refrain from interrupting other speakers; or otherwise interfering with the orderly conduct of meetings.

6. Decisions Based on Merit. Officials shall base their decisions on the merits and substance of the matter at hand and on greater public policy considerations, rather than on unrelated considerations.

7. Ex Parte Communications. In quasi-judicial matters, officials shall publicly disclose information that is relevant to a matter under consideration by the council or boards and commissions, which they may have received from sources outside of the public decision-making process.

8. Attendance. As provided in RCW 35A.12.060, a city councilmember shall forfeit his or her office by failing to attend three consecutive regular meetings of the council without being excused by the council. Unless excused, members of boards and commissions are expected to attend all meetings.

9. Nepotism. Consistent with the city nepotism policy, the city council will not appoint relatives of city councilmembers to boards or commissions or other appointed positions.

10. Advocacy. When acting in an official capacity, officials shall represent the official policies or positions of the city council, board or commission to the best of their ability when the city council, board or commission has taken a position or given an instruction. When a city official is appointed to fill an official role on a governing body in a capacity that is not dependent upon their status as a city of Auburn official, but, for example, as a representative of a geographic area, the official shall endeavor to represent the policies or positions consistent with those of the constituency he or she has been appointed to represent. When presenting their individual/personal opinions and positions, members shall explicitly state that they are not representing their body or

the City of Auburn, and they shall not give or provide the inference that they do. Officials have the right to endorse candidates for all council seats or other elected offices. It is inappropriate to make or display endorsements during council meetings, board/commission meetings, or other official city meetings. However, this does not preclude officials from participating in ceremonial occasions, community events or other events sponsored by civic groups.

11. Role of Legislative Officials. The city council shall have all the powers and authority granted to legislative bodies, except insofar as such power and authority is vested in the mayor in accordance with Chapter 35A.12 RCW.

Appendix A

- Chapter 9A.72 RCW - Perjury and interference with official proceedings
- RCW 35A.12.060 - Vacancy for nonattendance
- Chapter 35A.12 RCW - Mayor-council plan of government.
- Chapter 40.13 RCW - Preservation and destruction of public records
- RCW 42.17A.555 - Use of public office or agency facilities in campaigns – Prohibition – Exceptions
- RCW 42.17A.565 - Solicitation of contributions by public officials or employees
- Chapter 42.23 RCW - Code of ethics for municipal officers – Contract interests
- Chapter 42.36 RCW - Appearance of fairness doctrine – Limitations
- Chapter 42.56 RCW - Public Records Act

2.92.050 No right of action created – Effective date.

A. Nothing in this chapter shall be construed as creating or providing a basis for a private cause of action against the city or against any official by third parties.

B. No retroactive application is intended by the adoption of this chapter which shall only apply to acts that occur after the effective date thereof.

2.92.060 Ethics officer.

A. The city council creates the position of ethics officer. The mayor shall appoint the ethics officer subject to confirmation by the city council. Such confirmation shall be by unanimous vote, and the ethics officer shall be admitted to the practice of law and shall have sufficient experience and training to serve in this capacity. The ethics officer shall serve in conformity with a professional services contract with the City of Auburn. The services of the ethics officer may only be terminated upon the recommendation of the mayor and a concurring supermajority (majority plus one) vote of the city council.

B. The ethics officer shall make an annual review of this code of ethics and review training materials regarding the code of ethics, and the ethics officer may issue advisory opinions concerning the code of ethics. The ethics officer shall also be responsible for the prompt and fair enforcement of the code when necessary.

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Information provided to the ethics officer shall be treated as confidential to the extent permitted by law.

C. The ethics officer, in addition to other duties, shall conduct a review of this ethics code in 2015 and again every two years thereafter, and may recommend changes or additions to this code of ethics to the city council designed to improve the effectiveness and efficiency of processing ethics questions.

D. In rendering opinions under Sections 2.92.070 or 2.92.080 hereof, the ethics officer shall consider the Intent section contained in Section 2.92.010 hereof and in RCW 42.23.010.

2.92.070 Advisory opinions.

A. Upon request of any official, the ethics officer shall render written advisory opinions concerning the applicability of Sections 2.92.030 and 2.92.040 hereof.

B. Upon request of any official, the ethics officer may also render written advisory opinions concerning the applicability of the code of ethics to hypothetical circumstances and/or situations related to a matter of city-wide interest or policy.

C. The ethics officer will endeavor to respond to requests for advisory opinions within fourteen (14) days of submission of the request, or more rapidly if the requester expresses urgency in the request.

D. The ethics officer will not render opinions on matters that are the purview of other government agencies such as the public disclosure commission or the King County prosecutor.

E. Advisory opinions shall be shared only with the official making the request, unless the requesting official asks that the opinion be shared with other officials.

F. If an official reasonably relies on an advisory opinion rendered by the ethics officer, the official's conduct shall not be found to violate this code of ethics, as long as:

1. All material facts have been fully, completely, and accurately presented in a written request for an advisory opinion;

2. The advisory opinion advised in that the described conduct would not violate the code of ethics; and

3. The official's conduct is consistent with the advisory opinion.

G. The ethics officer may reconsider the questions and issues raised in an advisory opinion/request and, where the public interest requires, the ethics officer may rescind or modify the opinion; Provided that a rescinded or modified advisory opinion will not form the basis of a retroactive enforcement action.

H. If any portion of an advisory opinion is found to be invalid or unenforceable or not within the ethics officer's authority, the remainder of the opinion shall remain intact and in effect, unless the invalidity, unenforceability or lack of authority clearly invalidates the entire opinion.

I. All officials subject to this chapter are strongly encouraged to seek advisory opinions from the ethics officer at the earliest possible opportunity whenever an official has reason to believe that his or her circumstances could present a conflict of interest or the appearance of a conflict of interest or any other violation of this chapter.

J. Advisory opinions are subject to the attorney-client privilege.

2.92.080 Complaint procedure.

A. Any natural person who believes an official has committed a violation of the code may file a complaint with the city clerk. Complaints shall be subject to the following requirements:

1. The complaint must be based upon facts within the personal knowledge of the complainant;

2. The complaint must be submitted in writing and signed under oath by the complainant;

3. The complaint must include a detailed factual description of the alleged violation including the date, time and place of each occurrence and the name of the person or persons who are alleged to have committed a violation. The complaint must also refer to the specific provisions of the code of ethics which are alleged to have been violated;

4. The complaint must be accompanied by all available documentation or other evidence known to the complainant to support the allegations of the complaint;

5. The complaint must be filed within two years of the date of the occurrence or occurrences alleged to constitute a violation of the code of ethics.

B. Complaints shall be filed with the city clerk who shall forward the complaint and any accompanying documentation and evidence to the ethics officer and the respondent official within two business days. The ethics officer shall review the complaint for compliance with the requirements of subsection (A) of this section.

C. Should the ethics officer find that:

1. The complaint is untimely; or

2. The complaint has not been signed under oath; or

3. The complaint does not, on its face, state facts which, if proven to be true, constitute a violation of the provision of this code of ethics referred to in the complaint; or

4. The complaint fails to refer to a specific provision of the code of ethics which is alleged to have been violated;

The ethics officer shall, within ten (10) working days of the filing of the complaint, enter a written order stating the ethics officer's findings and, except as hereinafter provided, dismissing the complaint. The written order shall be transmitted to the complainant, the official that is the subject of the complaint, and the city council. If the ethics officer finds that the complaint is deficient pursuant to the findings in subsection (C)(2) or (4) of this section, the ethics officer shall issue an order notifying the complainant that unless a corrected complaint is filed within five days of the issuance of such order, the complaint shall be dismissed. The complainant may appeal the dismissal of a complaint under this subsection by filing an action in the King County superior court for a writ of certiorari pursuant to Chapter 7.16 RCW within ten (10) days of the date of issuance of the order dismissing the complaint.

D. The official who is subject of the complaint shall, within twenty (20) days of the date of mailing or personal service of the complaint by the clerk, file with the clerk

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any response he or she has to the complaint. A response to a complaint shall be made in writing signed under oath by the official. A response should be accompanied by all available documentation or other evidence known to the official which the official wishes the ethics officer to consider. The official may stipulate to some or all of the facts alleged in the complaint and shall either admit or deny the alleged violation. If the violation is admitted, the official may also submit an explanatory statement and may request a particular disposition.

E. Upon receipt of a response to a complaint, the ethics officer shall review the complaint and response, together with all supporting documentation and evidence submitted by the complainant and the official who is subject of the complaint. Within ten (10) days of receipt of the response (or, if no timely response is submitted, within thirty (30) days of the date of mailing the complaint to the official who is subject of the complaint by the city clerk), the ethics officer shall issue a decision in writing, including findings of fact, conclusions of law and a determination of whether any violation of the code of ethics has been established. The final written decision shall be signed and dated by the ethics officer. The city clerk shall deliver a copy of the final written decision to the complainant, the official who is subject of the complaint, the city council and to any other person who has submitted a written request therefor.

F. A complaint for ethical violations filed under this chapter shall be considered a claim filed against an official and handled in accordance with City policies and or practices.

G. Either the complainant or the official who is subject of the complaint may, within thirty (30) days of the date of the written decision, appeal the decision to the King County Superior Court by writ of certiorari pursuant to Chapter 7.16 RCW.

H. If the final decision of the ethics officer contains a determination that one or more violations of this code of ethics have occurred, the decision shall also contain any recommendations of the ethics officer to the city council for any remedial action or sanction that the council may find appropriate and lawful under the council's rules or city policies. If no appeal is filed in superior court, the council in consultation with the city attorney shall, within forty-five (45) days of the date of the decision, determine what, if any, of the recommendations of the ethics officers to adopt. Such determination shall be adopted at an open public meeting by a majority vote of those officials who are not officials who were subject of the complaint(s).

Section 2. Implementation. The Mayor is hereby authorized to implement such administrative procedures as may be necessary to carry out the directions of this legislation.

Section 3. Severability. The provisions of this ordinance are declared to be separate and severable. The invalidity of any clause, sentence, paragraph, subdivision, section or portion of this ordinance, or the invalidity of the application thereof to any

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person or circumstance shall not affect the validity of the remainder of this ordinance, or the validity of its application to other persons or circumstances.

Section 4. Effective Date. This Ordinance shall take effect and be in force five days from and after its passage, approval and publication as provided by law.

INTRODUCED: _____

PASSED: _____

APPROVED: _____

NANCY BACKUS, MAYOR

ATTEST:

Danielle E. Daskam, City Clerk

APPROVED AS TO FORM:

Daniel B. Heid, City Attorney

PUBLISHED: _____



AGENDA BILL APPROVAL FORM

Agenda Subject: Ordinance No. 6524		Date: July 21, 2014						
Department: Legal	Attachments: Ordinance No. 6524	Budget Impact:						
Administrative Recommendation: City Council introduce and adopt Ordinance No. 6524.								
Background Summary: The current provisions of state law provide for the code of ethics for municipal officers, which code operates where cities may not have the civic codes of ethics. The City Council of the City of Auburn, Washington, does not currently have in its city code a specific code of ethics for municipal officers. Ordinance No. 6524 amends Auburn City Code to reflect operative terms with respect to the statutory code of ethics applicable to municipal officers, and any clarifications appropriate for the city								
<table style="width: 100%; border: none;"> <tr> <td style="width: 33%; vertical-align: top;"> Reviewed by Council & Committees: ☐ Arts Commission ☐ Airport ☐ Hearing Examiner ☐ Human Services ☐ Park Board ☐ Planning Comm. </td> <td style="width: 33%; vertical-align: top;"> COUNCIL COMMITTEES: ☐ Finance ☐ Municipal Serv. ☐ Planning & CD ☐ Public Works ☐ Other _____ </td> <td style="width: 33%; vertical-align: top;"> Reviewed by Departments & Divisions: ☐ Building ☐ Cemetery ☐ Finance ☐ Fire ☐ Legal ☐ Public Works ☐ Information Services </td> </tr> <tr> <td style="width: 33%; vertical-align: top;"> ☐ M&O ☐ Mayor ☐ Parks ☐ Planning ☐ Police ☐ Human Resources </td> <td colspan="2"></td> </tr> </table>			Reviewed by Council & Committees: ☐ Arts Commission ☐ Airport ☐ Hearing Examiner ☐ Human Services ☐ Park Board ☐ Planning Comm.	COUNCIL COMMITTEES: ☐ Finance ☐ Municipal Serv. ☐ Planning & CD ☐ Public Works ☐ Other _____	Reviewed by Departments & Divisions: ☐ Building ☐ Cemetery ☐ Finance ☐ Fire ☐ Legal ☐ Public Works ☐ Information Services	☐ M&O ☐ Mayor ☐ Parks ☐ Planning ☐ Police ☐ Human Resources		
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☐ M&O ☐ Mayor ☐ Parks ☐ Planning ☐ Police ☐ Human Resources								
Action: Committee Approval: ☐ Yes ☐ No Council Approval: ☐ Yes ☐ No Call for Public Hearing ___/___/___ Referred to _____ Until ___/___/___ Tabled _____ Until ___/___/___								
Councilmember: Wales		Staff: Heid						
Meeting Date: 07/21/2014		Item Number:						

ORDINANCE NO. 6 5 2 4

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY
OF AUBURN, WASHINGTON, CREATING A NEW
SECTION 2.06.070 OF THE CITY CODE RELATING TO
THE STATUTORY CODE OF ETHICS**

WHEREAS, the current provisions of state law provide for the code of ethics for municipal officer, which code operates where cities may not have the civic codes of ethics; and

WHEREAS, the City Council of the city of Auburn, Washington, does not currently have in its city code a specific code of ethics for municipal officers; and

WHEREAS, it is appropriate for the city code to reflect operative terms with respect to the statutory code of ethics applicable to municipal officers, and any clarifications appropriate for the city.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF AUBURN, WASHINGTON, DO ORDAIN as follows:

Section 1. New Section to City Code. That a new section 2.06.070 of the city code be, and the same hereby is, created to read as follows:

2.06.070 Statutory code of ethics.

The provisions of chapter 42.23 of the Revised Code of Washington [Code of ethics for municipal officers -- Contract interests] shall serve as the code of ethics for the city of Auburn unless and until a separate code of ethics is hereafter promulgated and adopted for the City. It is provided, however, that the provisions of this Section shall not prohibit the City from funding, or contributing to the funding for, an event, activity, or function at which public officials attend and/or in which they participate, even if there is a value of such attendance or participation where, and so long as, the city council finds that there is a corresponding benefit to the City to have its public officials attend or participate, and where the city council expressly approves funding, or the contribution towards funding thereof.

Section 2. Implementation. The Mayor is hereby authorized to implement such administrative procedures as may be necessary to carry out the directions of this legislation.

Section 3. Severability. The provisions of this ordinance are declared to be separate and severable. The invalidity of any clause, sentence, paragraph, subdivision,

section or portion of this ordinance, or the invalidity of the application thereof to any person or circumstance shall not affect the validity of the remainder of this ordinance, or the validity of its application to other persons or circumstances.

Section 4. Effective Date. This Ordinance shall take effect and be in force five days from and after its passage, approval and publication as provided by law.

INTRODUCED: _____

PASSED: _____

APPROVED: _____

NANCY BACKUS, MAYOR

ATTEST:

Danielle E. Daskam, City Clerk

APPROVED AS TO FORM:



Daniel B. Heid, City Attorney

PUBLISHED: _____



AGENDA BILL APPROVAL FORM

Agenda Subject:

Ordinance No. 6513

Date:

July 14, 2014

Department:

Public Works

Attachments:

[ORD6513](#)

Budget Impact:

\$0

Administrative Recommendation:

City Council introduce and adopt Ordinance No. 6513 for Franchise Agreement No. 13-28 for Electric Lightwave LLC.

Background Summary:

Per Auburn City Code Chapter 20.06.010, a franchise shall be required of any commercial utility or telecommunications operator or carrier or other person who desires to occupy public ways of the city and to provide telecommunications or commercial utility services to any person or area in the city.

Electric Lightwave LLC (ELI) has applied for a Franchise Agreement to be able to operate and build within the City's rights of way a telecommunications network. The applicant will offer telecommunications services to customers within Auburn. The proposed franchise area is all rights of way in the City, as ELI leases facilities from CenturyLink and BPA throughout the City to provide service. Should ELI wish to build their own facilities they would need an amendment to this agreement and would need to obtain permits as required by the agreement. Exact locations, plans, engineering and construction schedules of any future ELI owned facilities would be reviewed, approved and managed through the City's permitting processes that are a requirement of the Franchise Agreement.

Ordinance No. 6513, if adopted by City Council, approves Franchise Agreement No. 13-28 subject to terms and conditions outlined in the Ordinance.

Reviewed by Council Committees:

Public Works

Councilmember: Osborne

Staff: Snyder

Meeting Date: September 15, 2014

Item Number: ORD.A

ORDINANCE NO. 6 5 1 3

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AUBURN, WASHINGTON, GRANTING TO ELECTRIC LIGHTWAVE, LLC, A WHOLLY OWNED SUBSIDIARY OF INTEGRA TELECOM HOLDINGS, INC, A DELEWARE CORPORATION, A FRANCHISE FOR TELECOMMUNICATIONS TYPE OF UTILITY

WHEREAS, Electric Lightwave LLC ("ELI") ("Grantee") has applied to the City of Auburn ("City") for a non-exclusive Franchise for the right of entry, use, and occupation of certain public right(s)-of-way within the City, expressly to install, construct, erect, operate, maintain, repair, relocate and remove its facilities in, on, over, under, along and/or across those right(s)-of-way; and

WHEREAS, following proper notice, the City Council held a public hearing on Grantee's request for a Franchise, at which time representatives of Grantee and interested citizens were heard in a full public proceeding affording opportunity for comment by any and all persons desiring to be heard; and

WHEREAS, from information presented at such public hearing, and from facts and circumstances developed or discovered through independent study and investigation, the City Council now deems it appropriate and in the best interest of the City and its inhabitants that the franchise be granted to Grantee,

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF AUBURN WASHINGTON, DO ORDAIN as follows:

Section 1. Grant of Right to Use Franchise Area

A. Subject to the terms and conditions stated herein, the City grants to the Grantee general permission to enter, use, and occupy the right(s)-of-way and/or other public property within the City of Auburn (the "Franchise Area").

B. The Grantee is authorized to install, remove, construct, erect, operate, maintain, relocate and repair the types of facilities specified in Exhibit "B," attached hereto and incorporated by reference, and all necessary appurtenances thereto, ("Grantee Facilities") for provision of those services set forth in Exhibit "C" ("Grantee Services") in, along, under and across the Franchise Area.

C. At the time of initial application Grantee represented that it did not currently own, lease, or have indefeasible rights of use for any facilities that would be defined as Grantee Facilities under this Franchise. This Franchise does

Ordinance No. 6513
Franchise Agreement No. 13-28
June 9, 2014
Page 1 of 1

not authorize the use of the Franchise Area for any facilities or services other than Grantee Facilities and Grantee Services, and it extends no rights or privilege relative to any facilities or services of any type, including Grantee Facilities and Grantee Services, on public or private property elsewhere within the City. If Grantee intends to install, construct, erect, operate, or maintain new Grantee Facilities, it shall submit an application to amend this Franchise, which amendment may be approved by the City administratively.

D. This Franchise is non-exclusive and does not prohibit the City from entering into other agreements, including Franchises, impacting the Franchise Area, unless the City determines that entering into such agreements interferes with Grantee's right set forth herein.

E. Except as explicitly set forth herein, this Franchise does not waive any rights that the City has or may hereafter acquire with respect to the Franchise Area or any other City roads, rights-of-way, property, or any portions thereof. This Franchise shall be subject to the power of eminent domain, and in any proceeding under eminent domain, the Grantee acknowledges its use of the Franchise Area shall have no value.

F. The City reserves the right to change, regrade, relocate, abandon, or vacate any right-of-way within the Franchise Area. If, at any time during the term of this Franchise, the City vacates any portion of the Franchise Area containing Grantee Facilities, the City shall reserve an easement for public utilities within that vacated portion, pursuant to RCW 35.79.030, within which the Grantee may continue to operate any existing Grantee Facilities under the terms of this Franchise for the remaining period set forth under Section 3.

G. The Grantee agrees that its use of Franchise Area shall at all times be subordinated to and subject to the City and the public's need for municipal infrastructure, travel, and access to the Franchise Area, except as may be otherwise required by law.

Section 2. Notice

A. Written notices to the parties shall be sent by certified mail to the following addresses, unless a different address shall be designated in writing and delivered to the other party.

City: Engineering Aide,
 Community Development and
 Public Works Department - Transportation
 City of Auburn
 25 West Main Street

Auburn, WA 98001-4998
Telephone: (253) 931-3010; Fax: (253) 931-3048

with a copy to: City Clerk
City of Auburn
25 West Main Street
Auburn, WA 98001-4998

Grantee: Electric Lightwave LLC, (ELI)
1201 NE Lloyd Blvd, Suite 500
Portland, OR 97232
Attn: Contract Administration
Telephone: 503-453-8000
Fax: 503-453-8221

B. Any changes to the above-stated Grantee information shall be sent to the City's Engineering Aide, Community Development and Public Works Department – Transportation Division, with copies to the City Clerk, referencing the title of this agreement.

C. The above-stated Grantee voice and fax telephone numbers shall be staffed at least during normal business hours, Pacific time zone.

Section 3. Term of Agreement

A. This Franchise shall run for a period of five (5) years, from the date of execution specified in Section 5.

B. **Renewal Option of Term:** The Grantee may renew this Franchise for an additional five (5) year period upon submission and approval of the application specified under ACC 20.06.130, as it now exists or is amended, within the timeframe set forth therein (currently 240 to 180 days prior to expiration of the then-current term). Any materials submitted by the Grantee for a previous application may be considered by the City in reviewing a current application, and the Grantee shall only submit those materials deemed necessary by the City to address changes in the Grantee Facilities or Grantee Services, or to reflect specific reporting periods mandated by the ACC.

C. **Failure to Renew Franchise – Automatic Extension.** If the Parties fail to formally renew this Franchise prior to the expiration of its term or any extension thereof, the Franchise automatically continues month to month until

renewed or either party gives written notice at least one hundred and eighty (180) days in advance of intent not to renew the Franchise.

Section 4. Definitions

For the purpose of this agreement:

"ACC" means the Auburn City Code.

"Emergency" means a condition of imminent danger to the health, safety and welfare of persons or property located within the City including, without limitation, damage to persons or property from natural consequences, such as storms, earthquakes, riots, acts of terrorism or wars.

"Maintenance or Maintain" shall mean examining, testing, inspecting, repairing, maintaining and replacing the existing Grantee Facilities or any part thereof as required and necessary for safe operation.

"Relocation" means permanent movement of Grantee facilities required by the City, and not temporary or incidental movement of such facilities, or other revisions Grantee would accomplish and charge to third parties without regard to municipal request.

"Rights-of-Way" means the surface and the space above and below streets, roadways, highways, avenues, courts, lanes, alleys, sidewalks, easements, rights-of-ways and similar public properties and areas.

Section 5. Acceptance of Franchise

A. This Franchise, and any rights granted hereunder, shall not become effective for any purpose unless and until Grantee files with the City Clerk (1) the Statement of Acceptance, attached hereto as Exhibit "D," and incorporated by reference, (2) all verifications of insurance coverage specified under Section 15, and (3) the financial guarantees specified in Section 16 (collectively, "Franchise Acceptance"). The date that such Franchise Acceptance is filed with the City Clerk shall be the effective date of this Franchise.

B. Should the Grantee fail to file the Franchise Acceptance with the City Clerk within 30 days after the effective date of the ordinance approving the Franchise, the City's grant of the Franchise will be null and void.

Section 6. Construction and Maintenance

A. The Grantee shall apply for, obtain, and comply with the terms of all permits required under ACC Chapter 12.24 for any work done within the City. Grantee shall comply with all applicable City, State, and Federal codes, rules, regulations, and orders in undertaking such work, which shall be done in a thorough and proficient manner.

B. Grantee agrees to coordinate its activities with the City and all other utilities located within the public right-of-way within which Grantee is under taking its activity.

C. The City expressly reserves the right to prescribe how and where Grantee Facilities shall be installed within the public right-of-way and may from time to time, pursuant to the applicable sections of this Franchise, require the removal, relocation and/or replacement thereof in the public interest and safety at the expense of the Grantee.

D. Before commencing any work within the public right-of-way, the Grantee shall comply with the One Number Locator provisions of RCW Chapter 19.122 to identify existing utility infrastructure.

E. Tree Trimming. Upon prior written approval of the City and in accordance with City ordinances, Grantee shall have the authority to reasonably trim trees upon and overhanging streets, public rights-of-way, and places in the Franchise Area so as to prevent the branches of such trees from coming in physical contact with the Grantee Facilities. Grantee shall be responsible for debris removal from such activities. If such debris is not removed within twenty-four (24) hours of completion of the trimming, the City may, at its sole discretion, remove such debris and charge Grantee for the cost thereof. This section does not, in any instance, grant automatic authority to clear vegetation for purposes of providing a clear path for radio signals. Any such general vegetation clearing will require a land clearing permit.

Section 7. Repair and Emergency Work

In the event of an emergency, the Grantee may commence such repair and emergency response work as required under the circumstances, provided that the Grantee shall notify the City Engineering Aide in writing as promptly as possible, before such repair or emergency work commences, or as soon thereafter as possible, if advance notice is not practical. The City may act, at any time, without prior written notice in the case of emergency, but shall notify the Grantee in writing as promptly as possible under the circumstances.

Section 8. Damages to City and Third-Party Property

Grantee agrees that if any of its actions under this Franchise impairs or damages any City property, survey monument, or property owned by a third-party, Grantee will restore, at its own cost and expense, said property to a safe condition. Such repair work shall be performed and completed to the satisfaction of the City Engineer.

Section 9. Location Preference

A. Any structure, equipment, appurtenance or tangible property of a utility, other than the Grantee's, which was installed, constructed, completed or in place prior in time to Grantee's application for a permit to construct or repair Grantee Facilities under this Franchise shall have preference as to positioning and location with respect to the Grantee Facilities. However, to the extent that the Grantee Facilities are completed and installed prior to another utility's submittal of a permit for new or additional structures, equipment, appurtenances or tangible property, then the Grantee Facilities shall have priority. These rules governing preference shall continue in the event of the necessity of relocating or changing the grade of any City road or right-of-way. A relocating utility shall not necessitate the relocation of another utility that otherwise would not require relocation. This Section shall not apply to any City facilities or utilities that may in the future require the relocation of Grantee Facilities. Such relocations shall be governed by Section 11.

B. Grantee shall maintain a minimum underground horizontal separation of five (5) feet from City water, sanitary sewer and storm sewer facilities and ten (10) feet from above-ground City water facilities; provided, that for development of new areas, the City, in consultation with Grantee and other utility purveyors or authorized users of the Public Way, will develop guidelines and procedures for determining specific utility locations.

Section 10. Grantee Information

A. Grantee agrees to supply, at no cost to the City, any information reasonably requested by the City Engineering Aide to coordinate municipal functions with Grantee's activities and fulfill any municipal obligations under state law. Said information shall include, at a minimum, as-built drawings of Grantee Facilities, installation inventory, and maps and plans showing the location of existing or planned facilities within the City. Said information may be requested either in hard copy or electronic format, compatible with the City's data base system, as now or hereinafter existing, including the City's geographic information Service (GIS) data base. Grantee shall keep the City Engineering

Aide informed of its long-range plans for coordination with the City's long-range plans.

B. The parties understand that Washington law limits the ability of the City to shield from public disclosure any information given to the City. Accordingly, the City agrees to notify the Grantee of requests for public records related to the Grantee, and to give the Grantee a reasonable amount of time to obtain an injunction to prohibit the City's release of records.

Grantee shall indemnify and hold harmless the City for any loss or liability for fines, penalties, and costs (including attorneys fees) imposed on the City because of non-disclosures requested by Grantee under Washington's open public records act, provided the City has notified Grantee of the pending request.

Section 11. Relocation of Grantee Facilities

A. Except as otherwise so required by law, Grantee agrees to relocate, remove, or reroute its facilities as ordered by the City Engineer at no expense or liability to the City, except as may be required by RCW Chapter 35.99. Pursuant to the provisions of Section 14, Grantee agrees to protect and save harmless the City from any customer or third-party claims for service interruption or other losses in connection with any such change, relocation, abandonment, or vacation of the Pubic Way.

B. If a readjustment or relocation of the Grantee Facilities is necessitated by a request from a party other than the City, that party shall pay the Grantee the actual costs thereof.

Section 12. Abandonment and or Removal of Grantee Facilities

A. Within one hundred and eighty days (180) of Grantee's permanent cessation of use of the Grantee Facilities, or any portion thereof, the Grantee shall, at the City's discretion, either abandon in place or remove the affected facilities.

B. The parties expressly agree that this Section shall survive the expiration, revocation or termination of this Franchise.

Section 13. Undergrounding

A. The parties agree that this Franchise does not limit the City's authority under federal law, state law, or local ordinance, to require the undergrounding of utilities.

B. Whenever the City requires the undergrounding of aerial utilities in the Franchise Area, the Grantee shall underground the Grantee Facilities in the manner specified by the City Engineer at no expense or liability to the City, except as may be required by RCW Chapter 35.99. Where other utilities are present and involved in the undergrounding project, Grantee shall only be required to pay its fair share of common costs borne by all utilities, in addition to the costs specifically attributable to the undergrounding of Grantee Facilities. Common costs shall include necessary costs for common trenching and utility vaults. Fair share shall be determined in comparison to the total number and size of all other utility facilities being undergrounded.

Section 14. Indemnification and Hold Harmless

A. The Grantee shall defend, indemnify, and hold the City and its officers, officials, agents, employees, and volunteers harmless from any and all costs, claims, injuries, damages, losses, suits, or liabilities of any nature including attorneys' fees arising out of or in connection with the Grantee's performance under this Franchise, except to the extent such costs, claims, injuries, damages, losses, suits, or liabilities are caused by the negligence of the City. Should a court of competent jurisdiction determine that this Agreement is subject to RCW 4.24.115, then, in the event of liability for damages arising out of bodily injury to persons or damages to property caused by or resulting from the concurrent negligence of the Contractor and the City, its officers, officials, employees, and volunteers, the Contractor's liability hereunder shall be only to the extent of the Contractor's negligence.

B. The Grantee shall hold the City harmless from any liability arising out of or in connection with any damage or loss to the Grantee Facilities caused by maintenance and/or construction work performed by, or on behalf of, the City within the Franchise Area or any other City road, right-of-way, or other property, except to the extent any such damage or loss is directly caused by the negligence of the City, or its agent performing such work.

C. The Grantee acknowledges that neither the City nor any other public agency with responsibility for fire fighting, emergency rescue, public safety or similar duties within the City has the capability to provide trench, close trench or confined space rescue. The Grantee, and its agents, assigns, successors, or contractors, shall make such arrangements as Grantee deems fit for the provision of such services. The Grantee shall hold the City harmless from any liability arising out of or in connection with any damage or loss to the Grantee for the City's failure or inability to provide such services, and, pursuant to the terms of Section 14(A), the Grantee shall indemnify the City against any and all third-

party costs, claims, injuries, damages, losses, suits, or liabilities based on the City's failure or inability to provide such services.

D. Acceptance by the City of any work performed by the Grantee shall not be grounds for avoidance of this section.

E. It is further specifically and expressly understood that the indemnification provided herein constitutes the Grantee's waiver of immunity under Industrial Insurance, Title 51 RCW, solely for the purposes of this indemnification. This waiver has been mutually negotiated by the parties. The provisions of this section shall survive the expiration or termination of this Agreement.

Section 15. Insurance

A. The Grantee shall procure and maintain for the duration of this Franchise, insurance against claims for injuries to persons or damage to property which may arise from or in connection with the performance of the work hereunder by the Grantee, its agents, representatives, or employees in the amounts and types set forth below:

1. Automobile Liability insurance covering all owned, non-owned, hired, and leased vehicles with a minimum combined single limit for bodily injury and property damage of \$1,000,000.00 per accident. Coverage shall be written on Insurance Services Office (ISO) form CA 00 01 or a substitute form providing equivalent liability coverage. If necessary, the policy shall be endorsed to provide contractual liability coverage.

2. Commercial General Liability insurance with limits no less than \$1,000,000.00 each occurrence, \$2,000,000.00 general aggregate and a \$2,000,000.00 products-completed operations aggregate limit. Coverage shall be written on ISO occurrence form CG 00 01 or a substitute form providing equivalent coverage and shall cover liability arising from premises, operations, independent contractors, products-completed operations, stop gap liability, and personal injury and advertising injury and liability assumed under an insured contract. The Commercial General Liability insurance shall be endorsed to provide the Aggregate Per Project Endorsement ISO form CG 25 03 11 85 or an equivalent form. There shall be no endorsement or modification of the Commercial General Liability insurance for liability arising from explosion, collapse, or underground property damage. The City shall be named as an additional insured under the Grantee's Commercial General Liability insurance policy with respect to the work performed under this Franchise using ISO Additional Insured Endorsement CG 20 10 10 01 and Additional Insured-

Completed Operations endorsement CG 20 37 10 01 or substitute endorsements providing equivalent coverage.

3. Professional Liability insurance with limits no less than \$1,000,000.00 per claim for all professional employed or retained Grantee to perform services under this Franchise.

4. Workers' Compensation coverage as required by the Industrial Insurance laws of the State of Washington.

B. The insurance policies are to contain, or be endorsed to contain, the following provisions for Automobile Liability, Professional Liability, and Commercial General Liability insurance:

1. The Grantee's insurance coverage shall be primary insurance as respects the City. Any insurance, self-insurance, or insurance pool coverage maintained by the City shall be in excess of the Grantee's insurance and shall not contribute with it.

2. The Grantee's insurance shall be endorsed to state that coverage shall not be cancelled by the insurers except after thirty (30) days' prior written notice has been given to Grantee. Upon receipt of such notice, Grantee shall immediately notify by certified mail, return receipt requested, the City.

C. Acceptability of Insurers. Insurance is to be placed with insurers with a current A.M. Best rating of not less than A:VII.

D. Verification of Coverage. Grantee shall furnish the City with documentation of insurer's A.M. Best rating and with original certificates and a copy of amendatory endorsements, including but not necessarily limited to the additional insured endorsement, evidencing the insurance requirements of Grantee before commencement of the work.

E. Grantee shall have the right to self-insure any or all of the above-required insurance. Any such self insurance is subject to approval by the City.

F. Grantee's maintenance of insurance as required by this Franchise shall not be construed to limit the liability of Grantee to the coverage provided by such insurance, or otherwise limit the City's recourse to any remedy to which the City is otherwise entitled at law or in equity.

Section 16. Performance Security

The Grantee shall provide the City with a financial guarantee in the amount of Fifty Thousand Dollars (\$50,000.00) running for, or renewable for, the term of this Franchise, in a form and substance acceptable to the City. In the event Grantee shall fail to substantially comply with any one or more of the provisions of this Franchise, then there shall be recovered jointly and severally from the principal and any surety of such financial guarantee any damages suffered by City as a result thereof, including but not limited to staff time, material and equipment costs, compensation or indemnification of third parties, and the cost of removal or abandonment of facilities hereinabove described. Grantee specifically agrees that its failure to comply with the terms of Section 19 shall constitute damage to the City in the monetary amount set forth therein. Such a financial guarantee shall not be construed to limit the Grantee's liability to the guarantee amount, or otherwise limit the City's recourse to any remedy to which the City is otherwise entitled at law or in equity.

Section 17. Successors and Assignees

A. All the provisions, conditions, regulations and requirements herein contained shall be binding upon the successors, assigns of, and independent contractors of the Grantee, and all rights and privileges, as well as all obligations and liabilities of the Grantee shall inure to its successors, assignees and contractors equally as if they were specifically mentioned herein wherever the Grantee is mentioned.

B. This Franchise shall not be leased, assigned or otherwise alienated without the express prior consent of the City by ordinance.

C. Grantee and any proposed assignee or transferee shall provide and certify the following to the City not less than sixty (60) days prior to the proposed date of transfer: (a) Complete information setting forth the nature, term and conditions of the proposed assignment or transfer; (b) All information required by the City of an applicant for a Franchise with respect to the proposed assignee or transferee; and, (c) An application fee which shall be set by the City, plus any other costs actually and reasonably incurred by the City in processing, and investigating the proposed assignment or transfer.

D. Prior to the City's consideration of a request by Grantee to consent to a Franchise assignment or transfer, the proposed Assignee or Transferee shall file with the City a written promise to unconditionally accept all terms of the Franchise, effective upon such transfer or assignment of the Franchise. The City is under no obligation to undertake any investigation of the transferor's state of compliance and failure of the City to insist on full compliance prior to transfer

does not waive any right to insist on full compliance thereafter.

Section 18. Dispute Resolution

A. In the event of a dispute between the City and the Grantee arising by reason of this Agreement, the dispute shall first be referred to the operational officers or representatives designated by Grantor and Grantee to have oversight over the administration of this Agreement. The officers or representatives shall meet within thirty (30) calendar days of either party's request for a meeting, whichever request is first, and the parties shall make a good faith effort to achieve a resolution of the dispute.

B. If the parties fail to achieve a resolution of the dispute in this manner, either party may then pursue any available judicial remedies. This Franchise shall be governed by and construed in accordance with the laws of the State of Washington. In the event any suit, arbitration, or other proceeding is instituted to enforce any term of this Agreement, the parties specifically understand and agree that venue shall be exclusively in King County, Washington. The prevailing party in any such action shall be entitled to its attorneys' fees and costs of suit, which shall be fixed by the judge hearing the case, and such fees shall be included in the judgment.

Section 19. Enforcement and Remedies

A. If the Grantee shall willfully violate, or fail to comply with any of the provisions of this Franchise through willful or unreasonable negligence, or should it fail to heed or comply with any notice given to Grantee under the provisions of this agreement, the City may, at its discretion, provide Grantee with written notice to cure the breach within thirty (30) days of notification. If the City determines the breach cannot be cured within thirty days, the City may specify a longer cure period, and condition the extension of time on Grantee's submittal of a plan to cure the breach within the specified period, commencement of work within the original thirty day cure period, and diligent prosecution of the work to completion. If the breach is not cured within the specified time, or the Grantee does not comply with the specified conditions, the City may, at its discretion, either (1) revoke the Franchise with no further notification, or (2) claim damages of Two Hundred Fifty Dollars (\$250.00) per day against the financial guarantee set forth in Section 16 for every day after the expiration of the cure period that the breach is not cured.

B. Should the City determine that Grantee is acting beyond the scope of permission granted herein for Grantee Facilities and Grantee Services, the City reserves the right to cancel this Franchise and require the Grantee to apply for, obtain, and comply with all applicable City permits, franchises, or other City

permissions for such actions, and if the Grantee's actions are not allowed under applicable federal and state or City laws, to compel Grantee to cease such actions.

Section 20. Compliance with Laws and Regulations

A. This Franchise is subject to, and the Grantee shall comply with all applicable federal and state or City laws, regulations and policies (including all applicable elements of the City's comprehensive plan), in conformance with federal laws and regulations, affecting performance under this Franchise. Furthermore, notwithstanding any other terms of this agreement appearing to the contrary, the Grantee shall be subject to the police power of the City to adopt and enforce general ordinances necessary to protect the safety and welfare of the general public in relation to the rights granted in the Franchise Area.

B. The City reserves the right at any time to amend this Franchise to conform to any hereafter enacted, amended, or adopted federal or state statute or regulation relating to the public health, safety, and welfare, or relating to roadway regulation, or a City Ordinance enacted pursuant to such federal or state statute or regulation upon providing Grantee with thirty (30) days written notice of its action setting forth the full text of the amendment and identifying the statute, regulation, or ordinance requiring the amendment. Said amendment shall become automatically effective upon expiration of the notice period unless, before expiration of that period, the Grantee makes a written call for negotiations over the terms of the amendment. If the parties do not reach agreement as to the terms of the amendment within thirty (30) days of the call for negotiations, the City may enact the proposed amendment, by incorporating the Grantee's concerns to the maximum extent the City deems possible.

C. The City may terminate this Franchise upon thirty (30) days written notice to the Grantee, if the Grantee fails to comply with such amendment or modification.

Section 21. License, Tax and Other Charges

This Franchise shall not exempt the Grantee from any future license, tax, or charge which the City may hereinafter adopt pursuant to authority granted to it under state or federal law for revenue or as reimbursement for use and occupancy of the Franchise Area.

Section 22. Consequential Damages Limitation

Notwithstanding any other provision of this Agreement, in no event shall either party be liable for any special, incidental, indirect, punitive, reliance, consequential or similar damages.

Section 23. Severability

If any portion of this Franchise is deemed invalid, the remainder portions shall remain in effect.

Section 24. Titles

The section titles used herein are for reference only and should not be used for the purpose of interpreting this Franchise.

Section 25. Implementation.

The Mayor is hereby authorized to implement such administrative procedures as may be necessary to carry out the directions of this legislation.

Section 26. Effective date.

This Ordinance shall take effect and be in force five days from and after its passage, approval and publication as provided by law.

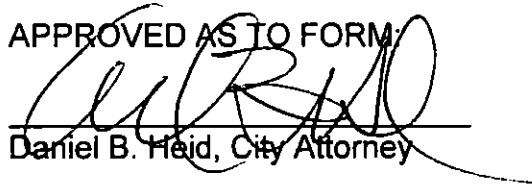
INTRODUCED: _____
PASSED: _____
APPROVED: _____

NANCY BACKUS, MAYOR

ATTEST:

Danielle E. Daskam, City Clerk

APPROVED AS TO FORM:

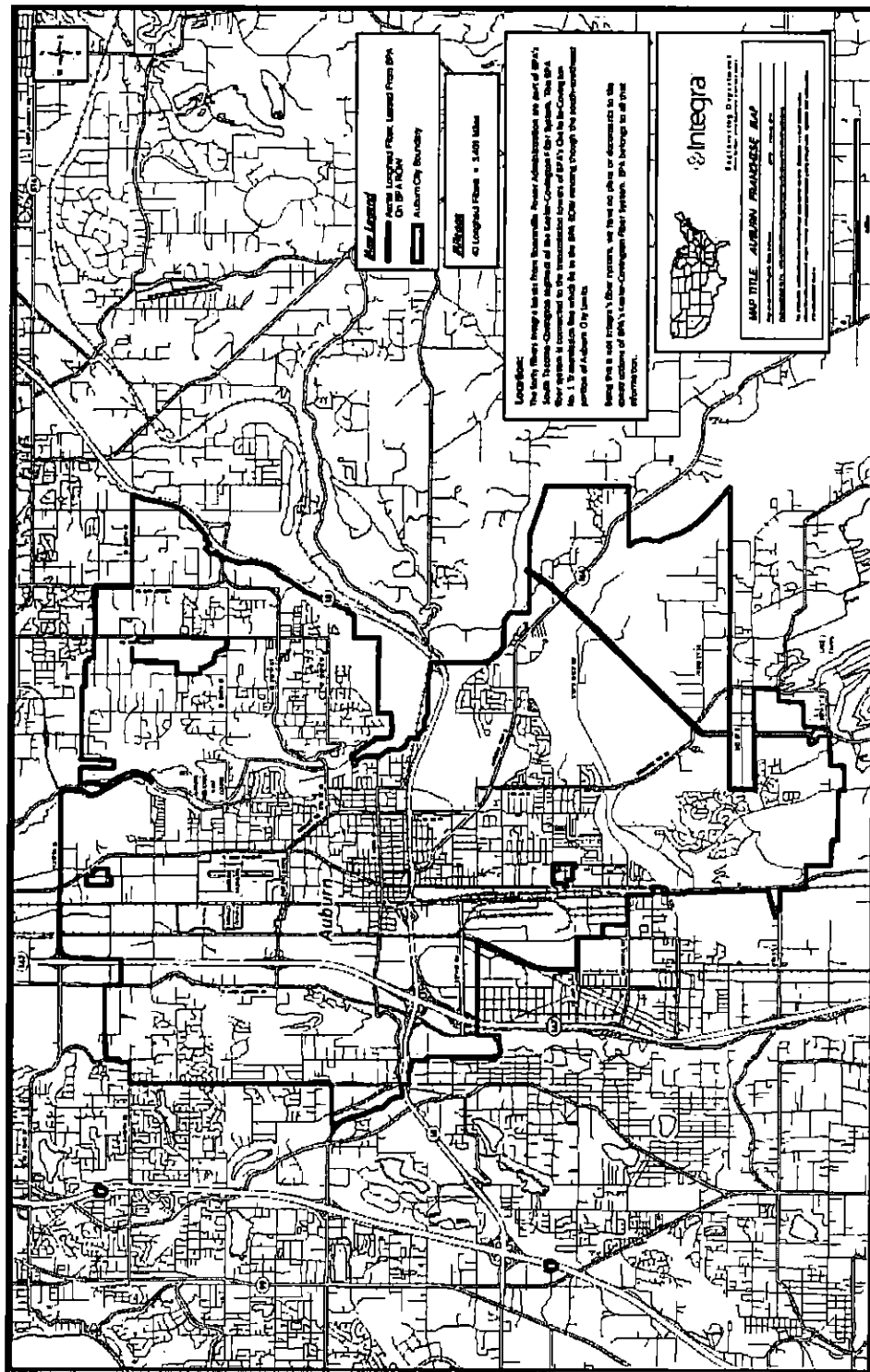


Daniel B. Heid, City Attorney

Ordinance No. 6513
Franchise Agreement No. 13-28
June 9, 2014
Page 14 of 14

Published: _____

Franchise Area



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Exhibit B

Grantee Facilities

Leased and owned telecommunication and communication conduit and fiber facilities within the Right of Ways. As of the date of this Ordinance ELI does not own facilities but may at a future date install ELI owned facilities at and pursuant to the lawful permitting process of the City.

Exhibit C

Grantee Services

Telecommunications and communication services.

EXHIBIT "D"

STATEMENT OF ACCEPTANCE

Electric Lightwave, LLC. (ELI), for itself, its successors and assigns, hereby accepts and agrees to be bound by all lawful terms, conditions and provisions of the Franchise attached hereto and incorporated herein by this reference.

Electric Lightwave LLC (ELI)

By: _____ Date: _____
Name:
Title:

STATE OF _____)
)ss.
COUNTY OF _____)

On this ____ day of _____, 2014, before me the undersigned, a Notary Public in and for the State of _____, duly commissioned and sworn, personally appeared, _____ of _____, the company that executed the within and foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of said company, for the uses and purposes therein mentioned, and on oath stated that he/she is authorized to execute said instrument.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal on the date hereinabove set forth.

Signature

NOTARY PUBLIC in and for the State of _____, residing at _____

MY COMMISSION EXPIRES: _____

Ordinance No. 6513
Franchise Agreement No. 13-28
June 9, 2014
Page 19 of 19



AGENDA BILL APPROVAL FORM

Agenda Subject:

Ordinance No. 6531

Date:

September 8, 2014

Department:

Community Development
and Public Works

Attachments:

[Agenda Bill](#)
[ORD6531](#)
[Exhibit 1](#)
[Exhibit 2](#)
[Exhibit 3](#)
[Exhibit 4](#)
[Exhibit 5](#)
[Exhibit 6](#)
[Exhibit 7](#)
[Exhibit 8](#)
[Exhibit 9](#)

Budget Impact:

\$0

Administrative Recommendation:

City Council introduce and adopt Ordinance No. 6531.

Background Summary:

Please see the attached agenda bill.

Reviewed by Council Committees:

Other: Legal, HE, PW, Planning, and Building

Councilmember: Holman

Staff: Snyder

Meeting Date: September 15, 2014

Item Number: ORD.B



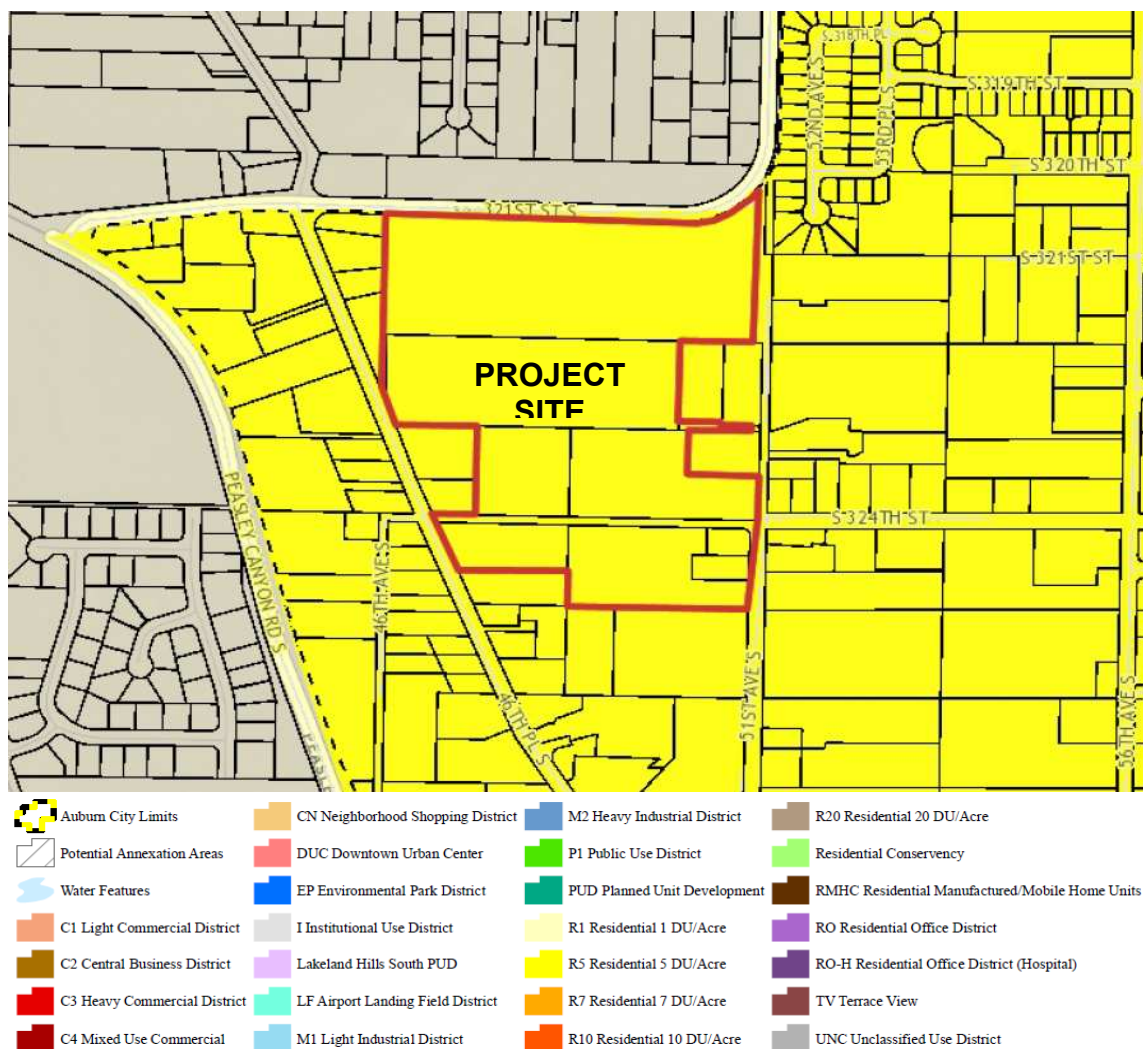
AGENDA BILL APPROVAL FORM

Agenda Subject: Ordinance No. 6531 REZ13-0003 – Polygon Northwest/Auburn Assemblage Rezone		Date: September 9, 2014
Department: Community Development and Public Works	Attachments: Ordinance No. 6531 and See Exhibit List	Budget Impact: N/A
Administrative Recommendation: City Council introduce and adopt Ordinance No. 6531.		
Background Summary: OWNER/ APPLICANT: Polygon Northwest Company, 11624 SE 5th St. Suite 200, Bellevue, WA 98005 REQUEST: Change in zoning of one parcel from R-5 Residential (5 du/acre) to R-7, Residential (7 du/acre) LOCATION: The property is located at the south side of 321st Street South, between 46th Place South and 51st Avenue South, Auburn, WA 98002 Parcel Numbers: 1521049017, 1521049157, 1521049001, 1521049019, 1521049020, 9262800194, 9262800201, 9262800203, 9262800271. EXISTING LAND USE: 9 parcels that comprise 34.35 acres of primarily undeveloped land with 3 single family residential dwelling units COMPREHENSIVE PLAN DESIGNATION: Single Family Residential SEPA STATUS: A DNS was issued on June 3, 2014 for the proposed rezone.		
Reviewed by Council & Committees: ☐ Arts Commission ☐ Airport ☒ Hearing Examiner ☐ Human Services ☐ Park Board ☐ Planning Comm. COUNCIL COMMITTEES: ☐ Finance ☐ Municipal Serv. ☐ Planning & CD ☐ Public Works ☐ Other _____		Reviewed by Departments & Divisions: ☒ Building ☐ Cemetery ☐ Finance ☒ Fire ☐ Legal ☒ Public Works ☐ Information Services ☐ M&O ☐ Mayor ☐ Parks ☒ Planning ☐ Police ☐ Human Resources
Action: Committee Approval: ☐ Yes ☐ No Council Approval: ☐ Yes ☐ No Referred to _____ Until ____/____/____ Tabled _____ Until ____/____/____ Call for Public Hearing ____/____/____		
Councilmember: Backus		Staff: Snyder
Meeting Date: September 15, 2014		Item Number:

The Comprehensive Plan designation, zoning designation and land uses of the surrounding properties are (See Exhibits 9 for the Land Use Map):

	Comprehensive Plan	Zoning	Land Use
Project Site	Single Family Residential / Vacant	R-5 Residential (5/du/acre)	Single Family Residential / Vacant
North	King County Jurisdiction	King County Jurisdiction	Vacant
South	Single Family Residential	R-5 Residential (5/du/acre)	Single Family Residential / Vacant
East	Single Family Residential	R-5 Residential (5/du/acre)	Single Family Residential
West	Single Family Residential	R-5 Residential (5/du/acre)	Single Family Residential

Zoning Map



FINDINGS OF FACT:

1. Katie Stecks of Polygon Northwest Company (“Applicant”) submitted a Rezone application on October 1, 2013 for the rezone of nine (9) parcels (“Site”) totaling approximately 34.35 acres. Since the submission of the application, Nick Abdelnour has taken over the project for PNW Home Builder North, LLC.
2. The project site is currently primarily undeveloped, with 3 single-family residential structures with associated outbuildings. With the exception of the single-family residence located in the northeastern corner of the project site, all other structures will be demolished.
3. The Comprehensive Plan designation of the site is “Single-Family Residential” and this designation is currently implemented by the zoning classification of the Site as R5 Residential – 5 DU per Acre.
4. The Rezone request is to change the 34.35 acre Site’s zoning classification from R5 Residential – 5 DU per acre to R7 Residential – 7 DU per acre.
5. The Rezone is requested for the Auburn Assemblage Preliminary Plat (PLT13-0006), which proposes to subdivide the Site and construct road, utility, and other required improvements for development of single-family residences on 154 lots, the density permitted by the requested R7 Residential zoning classification, per Auburn City Code (ACC) 18.07.030 for a net site area of approximately 27.07 acres.
6. Based on the 27.07 acres of net site area, the rezone from R5 Residential to R7 Residential would increase the projects lot yield by a total of 19 lots (R5 = 135 lots, R7 = 154 lots). This rezone would create an increase of 0.69 dwelling units per acre for the Site, increasing the density from the maximum 5 dwelling units per acre as allowed in the R5 zone to 5.69 dwelling units per acre which is within the density range of 5 to 7 dwelling units per acre as allowed in the R7 zone. The density requirements for both the R5 and R7 zones is detailed in Auburn City Code (ACC) 18.07.030.
7. Per ACC 18.07.020(E), the intent of the R7 Residential zone is as follows:

“The R-7 single-family residential zones are intended to create a living environment of optimum standards for single-family dwellings. It is further intended to achieve development densities of five to seven dwelling units per net acre. This zone will provide for the development of single-family detached dwellings and for such accessory uses as are related, incidental and not detrimental to the residential environment.”
8. The development regulations applicable to R7 Residential zone, including those for setbacks, lot coverage, impervious area, and height, are contained in ACC Table 18.07.020.
9. Per ACC 18.68.030, all applications for a rezone shall be reviewed by the Planning Director prior to the scheduling of a public hearing. After review of the application, the Director shall determine which of the following two process should occur to properly hear the rezone:
 - a. *If the rezone is consistent with the comprehensive plan, then the hearing examiner shall conduct a public hearing on the rezone and make a recommendation to the city council pursuant to ACC 2.46.170;*
 - b. *If the rezone is in conflict with the comprehensive plan, or there are no policies that relate to the rezone, or the policies are not complete, then a comprehensive plan amendment*

must be approved by the city council prior to the rezone being scheduled for a public hearing in front of the hearing examiner. The planning commission shall conduct a public hearing on the comprehensive plan amendment and make a recommendation to the city council."

The requested Rezone is consistent with the Comprehensive Plan, as analyzed below in 'IV. CONCLUSIONS', and the Hearing Examiner is to conduct a public hearing on the Rezone before making a recommendation to City Council.

10. Per the SEPA Determination of Non-Significance (DNS) (File No. SEP13-0030) ("Exhibit 6"), the proposal will not have significant adverse environmental impacts on soil stability, air quality, surface and ground water quality, animals, plants, energy and natural resources, environmental health, noise, land and shoreline use, housing, aesthetics, recreation, historic and cultural sites or objects, transportation, and public utilities, provided that the Rezone and associated Preliminary Plat (PLT13-0006) is consistent with all applicable City standards, regulations and conditions.
11. A combined Notice of Application ("Exhibit 7") for the Rezone, Preliminary Plat (PLT13-0006), and State Environmental Policy Act (SEPA) Environmental Checklist (SEP13-003) was issued on January 12, 2014. This notice identified that a public hearing is required, and that a separate notice would be issued. The City received three (3) comment letters on the project, of which none addressed the request to rezone the Site from R5 Residential to R7 Residential.
12. A combined Notice of Public Hearing and Determination of Non-Significance (DNS) was issued on June 2, 2014 ("Exhibit 8"). At the writing of this report, no comment letters have been received by the City. The combined SEPA determination and public hearing notice was issued a minimum of 14 days prior to the public hearing as required by WAC 197-11-340(2), and ACC 2.46.130. The notice was also posted at the Site and mailed to adjacent property owners within 350 feet of Site. This notice identified a public hearing was to be conducted by the Hearing Examiner on June 18, 2014.
13. The Hearing Examiner conducted a public hearing on June 18, 2014. At the hearing, testimony was received from City staff, the applicant, and several members of the public. The hearing was left open until June 30, 2014 in order to allow the SEPA appeal period to conclude. On July 15, 2014 the Hearing Examiner issued a recommendation to deny the rezone due to his conclusion that the property was not supported by adequate traffic infrastructure to accommodate the increase in density.
14. Pursuant to the Hearing Examiner's July 15, 2014 written recommendation, on July 22, 2014 City staff provided a formal written request for the Hearing Examiner to reconsider his recommendation. The request for reconsideration included a written explanation and attachments that further described the traffic analysis, traffic mitigation measures, and comprehensive plan land use designation analysis.
15. On July 24, 2014 the Hearing Examiner issued an Order on Reconsideration that granted the request for reconsideration and that posed a series of questions for staff's consideration and response. On August 7, 2014, staff provided a response to the Order on Reconsideration that included the additional information that had been requested.
16. Based upon the additional information provided by staff, on August 24, 2014 the Hearing Examiner issued a Final Decision recommending approval of the rezone without any conditions.

CONCLUSIONS:

ACC 18.68 provides certain criteria for approval of a Rezone. The following is a list of these criteria (*in italics*) and staff analysis of how the Rezone compares to the criteria:

1. *The rezone must be consistent with the Comprehensive Plan.*

Staff Analysis

The Rezone is consistent with the general purposes of the Comprehensive Plan. Specifically the Rezone is consistent with the following Comprehensive Plan goals, objectives, and policies [emphasis added]:

“Policy LU-17: Residential densities in areas designated for single-family residential use should be no greater than 7 units per net acre. These areas should be served with good transit availability (1/4 mile or less to a route with at least half hour service). Accessory dwelling units should be permitted to allow increased densities. The bulk of the single-family residential community should be developed at a density of between 4 and 7 dwelling units per net acre. Increased density is achievable through flexible development standards, if certain criteria are met, as established in City Code.”

“Policy LU-118: Reduce the consumption of undeveloped land by facilitating the redevelopment of underutilized land and infill of vacant parcels whenever possible in the single-family residential, moderate-density residential, and high-density residential designated areas of the City.”

“Objective 1.4: To ensure that new development does not out-pace the City’s ability to provide and maintain adequate public facilities and services, by allowing new development to occur only when and where adequate facilities exist or will be provided, and by encouraging development types and locations which can support the public services they require.”

“**GOAL 13. CITY UTILITIES.** To protect the public health and safety by providing efficient and cost-effective water, sanitary sewer, storm drainage, and solid waste services to the community. Ensure that development will only occur if the urban services necessary to support the development will be available at the time of development.”

“Single Family

Purpose: To designate and protect areas for predominantly single family dwellings.

Appropriate Implementation: Three zones may be used to implement this category:

- 3) R-7: Permits 5-7 dwelling units per net acre. This zone provides for relatively small lot sizes. It may be applied to the older neighborhoods of the City and reflects the typically smaller lot sizes found there. Application of this zone should be considered for areas considered appropriate for a mix of housing types, particularly in some of the Special Planning Areas as discussed below.”

The Rezone request for the Site, which is designated Single-Family Residential, will permit the proposed Auburn Assemblage Preliminary Plat (PLT13-0006) to develop at 5.69 dwelling units per acre, as consistent with Policy LU-17 and the implementation of the Single-Family Residential designation per the Comprehensive Plan.

The proposed Auburn Assemblage Preliminary Plat facilitated by the Rezone request will also support the Policy LU-118 by bringing the Site, currently primarily undeveloped, with 3 single-family residential structures (1 burnt out) and associated outbuildings, to be developed into a density

designated by the Comprehensive Plan. In addition, the proposed Auburn Assemblage Preliminary Plat will be required to construct improvements or assessed impact fees based on the 154 single-family lots permitted by the Rezone to R7 Residential for roads, utilities, parks, schools, emergency, and other public services, as consistent with Comprehensive Plan Objective 1.4 and Goal 13.

Staff finds the request meets the criterion.

2. *The rezone must be initiated by someone other than the City in order for the Hearing Examiner to consider the request.*

Staff Analysis

The Rezone has been initiated by Katie Stecks (and taken over by Nick Abdelnour) of Polygon Northwest Company, with the authorization of all associated property owners. Please see “Exhibit 3” for the property owner letters of authorization.

Staff finds the request meets the criterion.

HEARING EXAMINER RECOMMENDATION

After conducting a properly noticed public hearing, the Hearing Examiner issued a written recommendation of **approval** on August 24, 2014 with no conditions.

Staff reserves the right to supplement the record of the case to respond to matters and information raised subsequent to the writing of this report

EXHIBIT LIST

Exhibit 1	Staff Report to the Hearing Examiner
Exhibit 2	Vicinity Map
Exhibit 3	Application
Exhibit 4	Combined Notice of Application and Determination of Non-Significance with affidavits
Exhibit 5	Environmental Checklist and Final Staff Evaluation
Exhibit 6	Public Hearing Notice with affidavits
Exhibit 7	Aerial Photograph
Exhibit 8	Land Use Map
Exhibit 9	Hearing Examiner’s Recommendation

ORDINANCE NO. 6 5 3 1

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AUBURN, WASHINGTON, APPROVING THE REQUEST OF POLYGON NORTHWEST COMPANY FOR A REZONE FROM R-5 RESIDENTIAL 5 DU/ACRE TO R-7 RESIDENTIAL 7 DU/ACRE TO IMPLEMENT THE COMPREHENSIVE PLAN AND AMENDING THE CITY'S ZONING MAPS ACCORDINGLY

WHEREAS, the City of Auburn on August 18, 1986 adopted a Comprehensive Plan by Resolution No. 1703 which includes a Map establishing the location of the Comprehensive Plan Land Use Designations throughout the City; and

WHEREAS, on April 17, 1995 the City of Auburn adopted Comprehensive Plan Amendments by Resolution No. 2635 to comply with the Washington State Growth Management Act; and

WHEREAS, the City of Auburn on September 5, 1995 reaffirmed that action by Ordinance No. 4788; and

WHEREAS, Polygon Northwest Company, the applicant, submitted a rezone application on October 1, 2013 for tax parcels 1521049017, 1521049019, 1521049001, 152109157, 1521049020, 9262800194, 9262800201, 9262800203, and 9262800271 which has been requested to facilitate the Auburn Assemblage subdivision; and

WHEREAS, the environmental impacts of proposed rezone were considered in accordance with procedures of the State Environmental Policy Act with a Determination of Non-Significance issued on June 3, 2014; and

WHEREAS, after proper notice published in the City's official newspaper at least ten (10) days prior to the date of hearing, the City of Auburn Hearing Examiner on June 18, 2014 conducted a public hearing on the proposed Polygon Northwest Rezone; and

WHEREAS, at the public hearing the City of Auburn Hearing Examiner heard public testimony and took evidence and exhibits into consideration; and

WHEREAS, the City of Auburn Hearing Examiner made a recommendation to the City Council on the proposed Polygon Northwest Rezone on July 15, 2014; and

WHEREAS, the City of Auburn submitted a reconsideration request to the City of Auburn Hearing Examiner within the 7 day timeframe requesting the Examiner re-evaluate his recommendation based on staff's analysis of the project; and

WHEREAS, the City of Auburn Hearing Examiner requested supplemental information as part of the reconsideration request and the City submitted that information on August 6, 2014; and

WHEREAS, thereafter the City of Auburn Hearing Examiner made a recommendation to the City Council on the proposed Polygon Northwest Rezone on August 24, 2014; and

WHEREAS, on September 15, 2014, the Auburn City Council considered the proposed Polygon Northwest Rezone as recommended by the City of Auburn Hearing Examiner.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF AUBURN, WASHINGTON, DO ORDAIN AS FOLLOWS:

Section 1. The City Council ("Council) adopts and approves the Polygon Northwest Company rezone request for a rezone from R-5 Residential 5 du/acre to R-7 Residential 7 du/acre.

Section 2. The Zoning Map amendment is herewith designated as a basis for the exercise of substantive authority under the Washington State Environmental Policy Act by the City's responsible environmental official in accordance with RCW 43.21C.060.

Section 3. The Council adopts the Findings of Fact and Conclusions of Law, in the Hearing Examiner's recommendation outlined below:

FINDINGS OF FACT

Procedural:

1. **Applicant.** The Applicant is Polygon Northwest Company.
2. **Hearing.** A public hearing was held on the proposed rezone on June 18, 2014 at 5:30 p.m. at the City Council chambers at Auburn City Hall. The hearing was left open through June 30, 2014 because the appeal period for the SEPA DNS did not end until that date. Staff forwarded a SEPA mitigation agreement with the City of Federal Way (Ex. 20) to the examiner on July 1, 2014. The City requested reconsideration by document dated July 22, 2014. An Order on Reconsideration was issued on July 24, 2014, which contained numerous questions for City staff. The Order (along with the questions) was distributed to all parties of record. A response from City staff and three members of the public was forwarded to the Examiner on August 7, 2014.

Substantive:

3. **Site/Proposal Description.** The applicant has requested a rezone of 34.35 acres from R5 to R7. The rezone is composed of nine parcels and is located on the south side of 321st Street South, between 46th Place South and 51st Avenue South.
4. **Characteristics of the Area.** The rezone area adjoins vacant land to the north and R5 zoned property developed with single-family homes in all other

directions. According to the testimony of Mr. Vinton, the surrounding area is still rural in character.

5. Adverse Impacts. No significant adverse impacts are anticipated from the proposal. The primary issue of concern is traffic. The proposal would increase traffic in an area that suffers from congestion, but improvements proposed by and required of the applicant will assure that traffic levels remain within applicable King County and City of Auburn LOS standards.

As background on traffic, the staff report notes that the rezone would enable the applicant to increase the number of lots of its proposed preliminary plat from 135 lots to 154 lots. Through the requested rezone, the applicant seeks to increase density by 14%. Given strong neighborhood concern over existing traffic congestion, any significant increases in traffic should be carefully scrutinized.

Without any intersection improvements, the preliminary plat enabled by the proposed rezone would significantly add to the delays of an intersection that will fail to meet applicable King County LOS standards, which is adopted at LOS E. However, improvements will be made such that no significant increases in intersection delay will be created by the proposal. As shown in the traffic study for the proposed preliminary plat, plat Ex. 13, the northbound leg of the 46 Ave S/S 321st Ave intersection operated at LOS E in 2013. This intersection is in King County and the northbound leg is located in the City of Auburn. In 2016 the leg is anticipated to operate at LOS F with a 50.2 second delay without the proposed Auburn Assemblage preliminary plat and a 71 second delay with the proposed preliminary plat.

The applicant will be dedicating right of way to relocate the 46th Ave S/S 321st Ave intersection and thereby improve LOS. As noted in the City's Reconsideration Request, the City will be making improvements to the intersection in this dedicated right of way as identified in the City's six year transportation improvement plan, adopted in June, 2014. See City of Auburn Resolution 5075. With the applicant's right of way dedication and projected TIP improvements, the City notes in its reconsideration request that it considers impacts to the intersection "...to have been mitigated...". Unfortunately, it's unclear what the City considers to be adequate mitigation in this circumstance, e.g. improving the LOS to E or simply eliminating the increase in delay caused by the project. The latter is the more likely given that the applicant could not be legally required to provide any more mitigation under constitutional proportionality requirements. Either way, the improvements would satisfy the City's concurrency standards (not lowering LOS below adopted levels).

Without improvements, the preliminary plat enabled by the proposed rezone would cause another intersection to fall from LOS D to LOS E. The westbound leg of the

51 Ave S/S 316th St intersection operated at LOS D in 2013. In 2016 it will continue to have an LOS D without the proposed Auburn Assemblage preliminary plat, but will drop to LOS E with the proposed preliminary plat. The intersection is located in King County, but the back-ups caused by the proposal would be located in Auburn. See City Reconsideration Request, p. 3. King County's LOS is E for the intersection and Auburn's is D. Subsequent to the recommendation for denial, the applicant has proposed to make an intersection improvement that will keep the LOS at D as noted in the City's Request for Reconsideration. With the proposed improvement, the proposal will not adversely affect traffic delays at the 51st Ave S/S 316th St intersection.

Beyond traffic impacts, no other adverse impacts associated with the rezone are reasonably discernible from the record.

CONCLUSIONS OF LAW

Procedural:

1. Authority of Hearing Examiner. ACC 18.68.030(B)(1)(a) grants the Hearing Examiner with the authority to review and make a recommendation on rezone requests to the City Council if the planning director determines that the rezone requests are consistent with the comprehensive plan. The planning director has determined that the rezone request is consistent with the comprehensive plan. The Comprehensive Plan Land Use Map designation for the subject property is Single Family Residential, which is consistent with the requested R-7 zoning map designation.

Substantive:

2. Zoning Designation. The property is currently zoned R-5.

3. Case Law Review Criteria and Application. The Auburn City Code does not include any criteria for rezone applications. Washington appellate courts have imposed some rezone criteria, requiring that the proponents of a rezone must establish that conditions have substantially changed since the original showing and that the rezone must bear a substantial relationship to the public health, safety, morals or welfare. See *Ahmann-Yamane, LLC v. Tabler*, 105 Wn. App. 103, 111 (2001). If a rezone implements the Comprehensive Plan, a showing that a change of circumstances has occurred is not required. *Id.* at 112.

The rezone meets the judicial criteria. The rezone bears a substantial relationship to public health, safety or welfare since it will not create any significant adverse impacts and will allow for greater densities within an urbanized area as encouraged by the Washington State Growth Management Act. The traffic generated by the

proposal is not considered to be a significant adverse impact because congestion levels, as measured by LOS, will not be lowered below adopted LOS levels. As required by RCW 36.70B.030(2)(c), adopted LOS standards are determinative on the issue of adequacy of transportation facilities.

The proposal is determined to implement the comprehensive plan because it will be served by adequate public facilities as required by policies such as CF-11 and CF 12, will not create any significant adverse impacts and will provide for greater densities in an urbanized area as encouraged by the Washington State Growth Management Act, Chapter 36.70A RCW. In reviewing staff's reconsideration arguments on the implementation issue, it sometimes appears that staff is focused upon "why not" approve a rezone from one authorized zoning district designation to another as opposed to "why" approve that rezone. It is important to recognize that there is no presumption of validity favoring a rezone. 105 Wn. App. at 111. If an applicant requests an upzone from one authorized residential density to a higher authorized residential density, that applicant must demonstrate how that upzone, as opposed to remaining at the assigned designation, implements the comprehensive plan. The extensive reconsideration argument submitted by the City gave many reasons why the R7 designation is consistent with the comprehensive plan, but there was little explanation as to why an upzone from R5 to R7 would serve to implement the comprehensive plan. There is no Washington case law yet on what it means to "implement" the comprehensive plan in an upzone. At the least it must be conceded that "implementing" the comprehensive plan means a little more than merely ending with a designation that is consistent with the comprehensive plan. Justifying an upzone involving an increase in density is particularly important in areas suffering from severe traffic congestion.

RECOMMENDATION

The Hearing Examiner recommends approval of REZ13-0003.

Section 4. Upon the passage, approval, and publication of this Ordinance as provided by law, the City Clerk of the City of Auburn shall cause this Ordinance to be recorded in the office of the King County Recorder.

Section 5. If any section, subsection, sentence, clause, phrase or portion of this Ordinance or any of the Zoning Map amendments adopted herein, is for any reason held invalid or unconstitutional by any Court of competent jurisdiction, such portion shall

be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

Section 6. The Mayor is hereby authorized to implement such administrative procedures as may be necessary to carry out the directives of this legislation.

Section 7. This Ordinance shall take effect and be in force five days from and after its passage, approval, and publication as provided by law.

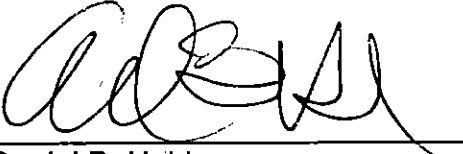
INTRODUCED: _____
PASSED: _____
APPROVED: _____

Nancy Backus
MAYOR

ATTEST:

Danielle E. Daskam,
City Clerk

APPROVED AS TO FORM:



Daniel B. Heid,
City Attorney

Published: _____

REZONE

Rezone for Auburn Assemblage (154 Lots)

REZ13-0003

I. GENERAL INFORMATION:

Application Date: October 1, 2013

Applicant/ Agent: Nick Abdelnour, PNW Home Builder North, LLC
11624 SE 5th ST, Suite 200, Bellevue WA 98005

Property Owner(s): The Samara-Hubner, Inc., Richard Priest, Kari Priest, Kristie Hemphill, Camwest Federal Way, LLC, Donald Folsom, Judith Folsom

Project Description: Rezone nine (9) parcels ("Site") totaling approximately 34.35 acres from R5 Residential – 5 Dwelling Units (DU) per Acre to R7 Residential – 7 DU per acre. The Rezone is for the Auburn Assemblage Preliminary Plat, which proposes to subdivide the subject parcels into 154 lots.

Proposed Location: The south side of 321st Street South, between 46th Place South and 51st Avenue South, within the SE ¼ of Section 15-21-04.

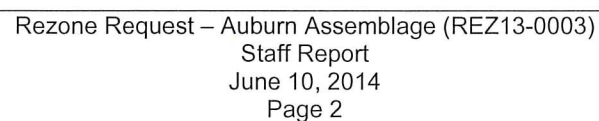
Parcel Numbers: King County Assessor's Parcel No's: 1521049017, 1521049157, 1521049001, 1521049019, 1521049020, 9262800194, 9262800201, 9262800203, 9262800271.

Subject Properties and Adjacent Property Zoning and Land Use:

	Comprehensive Plan	Zoning	Current Land Use
Site	Single-Family Residential / Vacant	R5 Residential (5 du/ac)	Single-family residential / Vacant
North	King County Jurisdiction	King County Jurisdiction	Vacant
South	Single-Family Residential	R5 Residential (5 du/ac)	Single-family residential / Vacant
West	Single-Family Residential	R5 Residential (5 du/ac)	Single-family residential
East	Single-Family Residential	R5 Residential (5 du/ac)	Single-family residential

Rezone Request – Auburn Assemblage (REZ13-0003)

Staff Report
June 10, 2014
Page 1



II. SEPA STATUS:

A SEPA Determination of Non-Significance (DNS) ("Exhibit 6") was issued on June 3, 2014. The comment period ended on June 17, 2014 with no comments received. The appeal period ends on July 1, 2014. As of the writing of this report, no comments or appeals have been filed. If comments are received, they will be provided at the Hearing on June 18, 2014.

III. FINDINGS OF FACT:

1. Katie Stecks of Polygon Northwest Company ("Applicant") submitted a Rezone application on October 1, 2013 for the rezone of nine (9) parcels ("Site") totaling approximately 34.35 acres. Since the submission of the application, Nick Abdelnour has taken over the project for PNW Home Builder North, LLC.
2. The project site is currently primarily undeveloped, with 3 single-family residential structures with associated outbuildings. With the exception of the single-family residence located in the northeastern corner of the project site, all other structures will be demolished.
3. The Comprehensive Plan designation of the site is "Single-Family Residential" and this designation is currently implemented by the zoning classification of the Site as R5 Residential – 5 DU per Acre.
4. The Rezone request is to change the 34.35 acre Site's zoning classification from R5 Residential – 5 DU per acre to R7 Residential – 7 DU per acre.
5. The Rezone is requested for the Auburn Assemblage Preliminary Plat (PLT13-0006), which proposes to subdivide the Site and construct road, utility, and other required improvements for development of single-family residences on 154 lots, the density permitted by the requested R7 Residential zoning classification, per Auburn City Code (ACC) 18.07.030 for a net site area of approximately 27.07 acres.
6. Based on the 27.07 acres of net site area, the rezone from R5 Residential to R7 Residential would increase the projects lot yield by a total of 19 lots (R5 = 135 lots, R7 = 154 lots). This rezone would create an increase of 0.69 dwelling units per acre for the Site, increasing the density from the maximum 5 dwelling units per acre as allowed in the R5 zone to 5.69 dwelling units per acre which is within the density range of 5 to 7 dwelling units per acre as allowed in the R7 zone. The density requirements for both the R5 and R7 zones is detailed in Auburn City Code (ACC) 18.07.030.
7. Per ACC 18.07.020(E), the intent of the R7 Residential zone is as follows:

"The R-7 single-family residential zones are intended to create a living environment of optimum standards for single-family dwellings. It is further intended to achieve development densities of five to seven dwelling units per net acre. This zone will provide for the development of single-family detached dwellings and for such accessory uses as are related, incidental and not detrimental to the residential environment."

8. The development regulations applicable to R7 Residential zone, including those for setbacks, lot coverage, impervious area, and height, are contained in ACC Table 18.07.020.
9. Per ACC 18.68.030, all applications for a rezone shall be reviewed by the Planning Director prior to the scheduling of a public hearing. After review of the application, the Director shall determine which of the following two process should occur to properly hear the rezone:
 - a. *If the rezone is consistent with the comprehensive plan, then the hearing examiner shall conduct a public hearing on the rezone and make a recommendation to the city council pursuant to ACC 2.46.170;*
 - b. *If the rezone is in conflict with the comprehensive plan, or there are no policies that relate to the rezone, or the policies are not complete, then a comprehensive plan amendment must be approved by the city council prior to the rezone being scheduled for a public hearing in front of the hearing examiner. The planning commission shall conduct a public hearing on the comprehensive plan amendment and make a recommendation to the city council."*

The requested Rezone is consistent with the Comprehensive Plan, as analyzed below in 'IV. CONCLUSIONS', and the Hearing Examiner is to conduct a public hearing on the Rezone before making a recommendation to City Council.

10. Per the SEPA Determination of Non-Significance (DNS) (File No. SEP13-0030) ("Exhibit 6"), the proposal will not have significant adverse environmental impacts on soil stability, air quality, surface and ground water quality, animals, plants, energy and natural resources, environmental health, noise, land and shoreline use, housing, aesthetics, recreation, historic and cultural sites or objects, transportation, and public utilities, provided that the Rezone and associated Preliminary Plat (PLT13-0006) is consistent with all applicable City standards, regulations and conditions.
11. A combined Notice of Application ("Exhibit 7") for the Rezone, Preliminary Plat (PLT13-0006), and State Environmental Policy Act (SEPA) Environmental Checklist (SEP13-003) was issued on January 12, 2014. This notice identified that a public hearing is required, and that a separate notice would be issued. The City received three (3) comment letters on the project, of which none addressed the request to rezone the Site from R5 Residential to R7 Residential.
12. A combined Notice of Public Hearing and Determination of Non-Significance (DNS) was issued on June 2, 2014 ("Exhibit 8"). At the writing of this report, no comment letters have been received by the City. The combined SEPA determination and public hearing notice was issued a minimum of 14 days prior to the public hearing as required by WAC 197-11-340(2), and ACC 2.46.130. The notice was also posted at the Site and mailed to adjacent property owners within 350 feet of Site. This notice identified a public hearing was to be conducted by the Hearing Examiner on June 18, 2014.

IV. CONCLUSIONS:

ACC 18.68 provides certain criteria for approval of a Rezone. The following is a list of these criteria (*in italics*) and staff analysis of how the Rezone compares to the criteria:

1. *The rezone must be consistent with the Comprehensive Plan.*

Staff Analysis

The Rezone is consistent with the general purposes of the Comprehensive Plan. Specifically the Rezone is consistent with the following Comprehensive Plan goals, objectives, and policies [emphasis added]:

“Policy LU-17: Residential densities in areas designated for single-family residential use should be no greater than 7 units per net acre. These areas should be served with good transit availability (1/4 mile or less to a route with at least half hour service). Accessory dwelling units should be permitted to allow increased densities. The bulk of the single-family residential community should be developed at a density of between 4 and 7 dwelling units per net acre. Increased density is achievable through flexible development standards, if certain criteria are met, as established in City Code.”

“Policy LU-118: Reduce the consumption of undeveloped land by facilitating the redevelopment of underutilized land and infill of vacant parcels whenever possible in the single-family residential, moderate-density residential, and high-density residential designated areas of the City.”

“Objective 1.4: To ensure that new development does not out-pace the City’s ability to provide and maintain adequate public facilities and services, by allowing new development to occur only when and where adequate facilities exist or will be provided, and by encouraging development types and locations which can support the public services they require.”

“**GOAL 13. CITY UTILITIES.** To protect the public health and safety by providing efficient and cost-effective water, sanitary sewer, storm drainage, and solid waste services to the community. Ensure that development will only occur if the urban services necessary to support the development will be available at the time of development.”

“*Single Family*

Purpose: To designate and protect areas for predominantly single family dwellings.

Appropriate Implementation: Three zones may be used to implement this category:

- 3) R-7: Permits 5-7 dwelling units per net acre. This zone provides for relatively small lot sizes. It may be applied to the older neighborhoods of the City and reflects the typically smaller lot sizes found there. Application of this zone should be considered for areas considered appropriate for a mix of housing types, particularly in some of the Special Planning Areas as discussed below.”

The Rezone request for the Site, which is designated Single-Family Residential, will permit the proposed Auburn Assemblage Preliminary Plat (PLT13-0006) to develop at 5.69 dwelling units per acre, as consistent with Policy LU-17 and the implementation of the Single-Family Residential designation per the Comprehensive Plan.

The proposed Auburn Assemblage Preliminary Plat facilitated by the Rezone request will also support the Policy LU-118 by bringing the Site, currently primarily undeveloped, with 3 single-family residential structures (1 burnt out) and associated outbuildings, to be developed into a density designated by the Comprehensive Plan. In addition, the proposed Auburn Assemblage Preliminary Plat will be required to construct improvements or assessed impact fees based on the 154 single-family lots permitted by the Rezone to R7 Residential for roads, utilities, parks, schools, emergency, and other public services, as consistent with Comprehensive Plan Objective 1.4 and Goal 13.

Staff finds the request meets the criterion.

2. *The rezone must be initiated by someone other than the City in order for the Hearing Examiner to consider the request.*

Staff Analysis

The Rezone has been initiated by Katie Stecks (and taken over by Nick Abdelnour) of Polygon Northwest Company, with the authorization of all associated property owners. Please see "Exhibit 3" for the property owner letters of authorization.

Staff finds the request meets the criterion.

V. RECOMMENDATION:

Based upon the application, accompanying materials, Findings of Fact, and Conclusions of the staff report, staff recommends that the Hearing Examiner recommend to City Council **approval** of the Rezone.

VI. CONDITIONS OF APPROVAL:

1. N/A

Staff reserves the right to supplement the record of the case to respond to matters and information raised subsequent to the writing of this report

VII. EXHIBIT LIST:

- Exhibit 1: Staff Report
Exhibit 2: Completed Application Form (REZ13-0003) and Materials
Exhibit 3: Vicinity Map
Exhibit 4: Current Zoning Map
Exhibit 5: 2012 Aerial Photograph
Exhibit 6: Determination of Non-Significance (SEP13-0030) issued June 2, 2014
Exhibit 7: Combined Notice of Application and Affidavits for Publishing, Mailing, and Posting
Exhibit 8: Combined Notice of Public Hearing and SEPA Determination of Non-Significance, and Affidavits for Publishing, Mailing, and Posting

Prepared by:

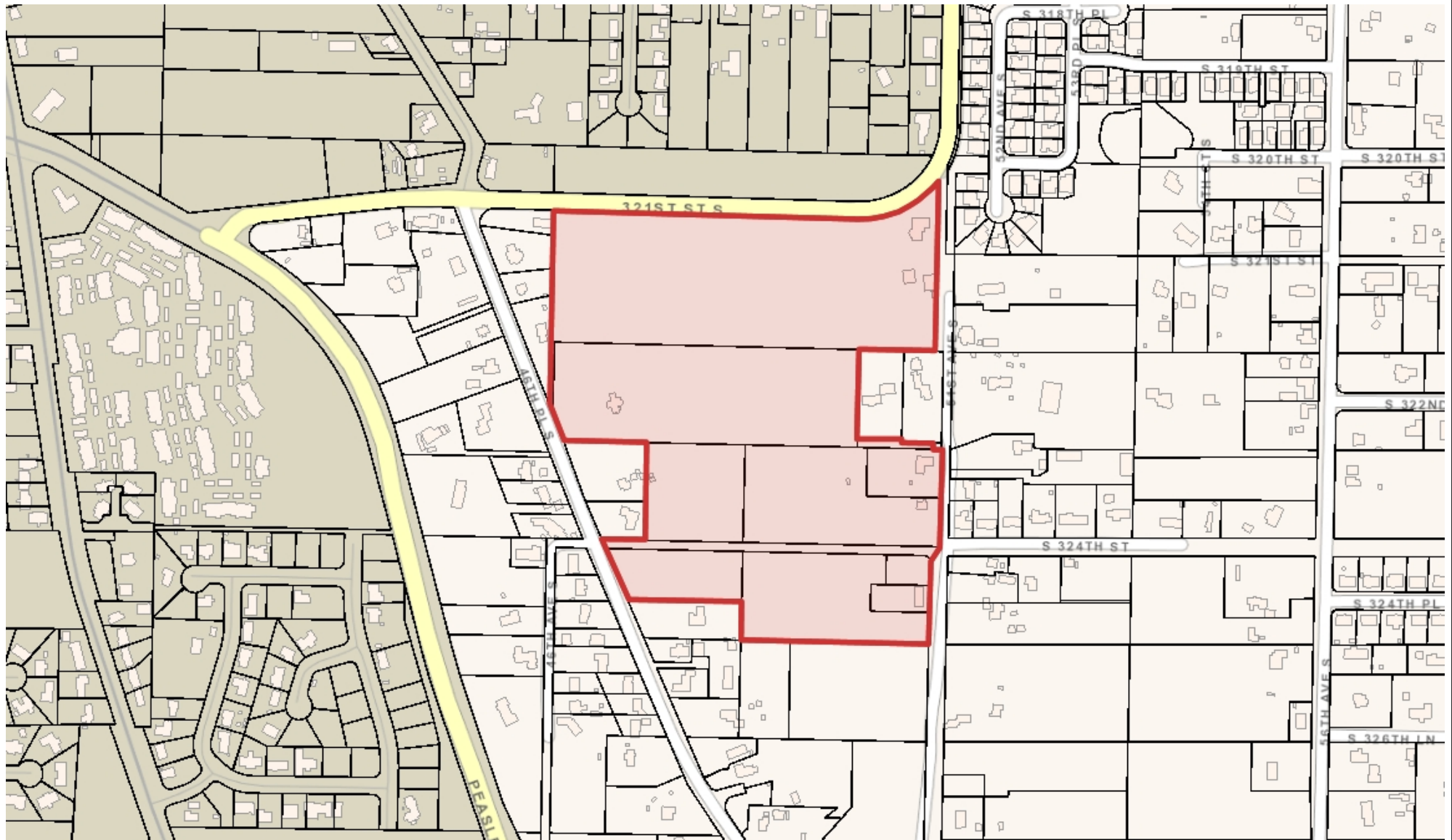

David L. Jones, AICP, Senior Planner
Community Development & Public Works Department

6-11-14
DATE

DJ/svs
CORR14-0372

Auburn Assemblage Vicinity Map

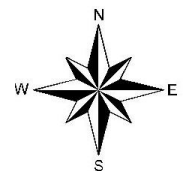
Exhibit 2



Printed Date:6/10/2014

Map Created by City of Auburn eGIS

Information shown is for general reference purposes only and does not necessarily represent exact geographic or cartographic data as mapped. The City of Auburn makes no warranty as to its accuracy.



**CITY OF AUBURN**

Planning & Development Department
 Auburn City Hall Annex, 2nd Floor
 1 East Main Street
 Auburn, Washington 98001-4998
 Tel: 253.931.3090
 Fax: 253.804.3114
permitcenter@auburnwa.gov
www.auburnwa.gov

OFFICE USE ONLY

FILE #: REZ13-0003
 FILE NAME: _____
 TYPE: _____ RECEIVED BY: _____
 FEES PAID: _____ CHECK/CASH: _____
 SUBMITTAL DATE: _____
 LAND USE DESIGNATION: _____

REZONE APPLICATION**APPLICANT:** ☒ Use mailing address for meeting notification.☒ Check box if Primary ContactCOMPANY: Polygon Northwest Company - Katie StecksADDRESS: 11624 SE 5th St, Suite 200(CITY, STATE, ZIP) Bellevue, WA 98005PHONE: 425-586-7700 FAX: _____ E-MAIL: katie.stecks@polygonhomes.comSIGNATURE: *Katie Stecks*
(Signature Required)PRINTED NAME: Katie Stecks**APPLICANT'S REPRESENTATIVE:**

COMPANY: _____

ADDRESS: _____

(CITY, STATE, ZIP) _____

PHONE: _____ FAX: _____

E-MAIL: _____

SIGNATURE: _____
(Signature Required)

PRINTED NAME: _____

PROPERTY OWNER(S): ☐ Attach separate sheet if needed.☐ Check box if Primary Contact

COMPANY: _____

ADDRESS: _____

(CITY, STATE, ZIP) _____

PHONE: _____ FAX: _____

E-MAIL: _____

SIGNATURE: _____
(Signature Required)

PRINTED NAME: _____

Note: Applicant or representative must have property owner's consent to file this application form in order for it to be accepted

PROPERTY INFORMATION (REQUIRED)

SITE ADDRESS: _____

EXISTING USE OF SITE: Residential

ASSESSOR'S PARCEL ID#

LOT SIZE

ZONING DISTRICT

1521049017587,379R515210490196,534R5152109157339,768R5PROPOSED USE OF SITE: Single Family
ResidentialAREA TO DEVELOPED (s.f.): 933,490.8

D. WRITTEN STATEMENT about how the proposed rezone complies with following decision criteria:

1. The intent of the zoning code and the comprehensive plan of the City. Is the rezone consistent with the comprehensive plan?

The rezone is consistent with the zoning code and comprehensive plan designation of "Single Family Residential".

Purpose: To designate and protect areas for predominantly single family dwellings.

Description: This category includes those areas reserved primarily for single family dwellings. Implementing regulations should provide for an appropriate range of lot sizes, clustered and mixed housing types as part of a planned development.

Compatible Uses: Single family residences and uses that serve or support residential development, such as schools, daycare centers, churches and parks shall be considered appropriate and may be permitted on a conditional basis. Other public buildings and semi-public uses may be permitted if designed and laid out in a manner which enhances rather than detracts from the residential character of the area. In siting such uses, however, special care shall be given to ensuring adequate parking, landscaping, and traffic circulation with a minimum of conflict with residential uses. Uses which generate significant traffic (such as large churches) should only locate on developed arterials in areas zoned for institutional uses.

Intrusion of industrial uses into any of these single family areas shall be prohibited. Only very limited commercial uses such as home occupations or strictly limited appropriate conditional uses can be allowed.

Planned developments should be favorably considered in these designations in order to allow optimal flexibility. In providing such flexibility, the emphasis should be on small alley-loaded lot single family development, limited low density multifamily housing and a mixture of types, and design diversity should be sought. Except where conditional use permits have been previously granted, alternate structure types should not exceed more than 40 percent of the units, and alternative structures should in most cases contain no more than four dwelling units each. However, where substantial offsetting community benefits can be identified, such alternative structures may be allowed to contain more than three units each.

Criteria for Designation: Areas suitable for this designation include those areas designated in goals and policies of this Plan as single family areas. Consistent with those policies, areas within the Community Serving Area of the City suitable for this category should be reserved for these uses. This designation should also be applied to areas adjacent to lower density residential plan designations.

Appropriate Implementation: Three zones may be used to implement this category:

- 1) R-1: Permits one dwelling unit per net acre. This zone is primarily applied to areas designated as urban separators under the King County Countywide Planning Policies where rezones from existing densities (typically one unit per acre) are not allowed for a 20 year period and/or to areas with significant environmental constraints. It may also be applied in limited instances to areas where greater densities are limited by environmental constraints.
- 2) R-5: Permits 4-5 dwelling units per net acre. This zone is intended to create a living environment of optimum standards for single family dwellings. Duplexes are conditionally permitted subject to meeting infill residential design standards. It is intended to be applied to the relatively undeveloped portions of the City, areas where existing development patterns are consistent with the density and upland areas where greater densities would strain the transportation system.
- 3) R-7: Permits 5-7 dwelling units per net acre. This zone provides for relatively small lot sizes. It may be applied to the older neighborhoods of the City and reflects the typically smaller lot sizes found there. Application of this zone should be considered for areas considered appropriate for a mix of housing types, particularly in some of the Special Planning Areas as discussed below.

2. The availability of municipal services such as water, sewer, roads, fire, and police protection which might be required by reason of the proposed rezone.

The availability of municipal services including water and sewer from the Lakehaven Utility District are sufficient and will require offsite improvements, roads located in the City of Auburn and King County will be re-designed and re-aligned to improve levels of service, and fire and police protection are also sufficient to serve the proposed rezone from R-5 to R-7.

Ex 3



CITY OF AUBURN

Planning & Development Department
Auburn City Hall Annex, 2nd Floor
1 East Main Street
Auburn, WA 98001-4998
Tel: 253.931.3090
Fax: 253.804.3114
permitcenter@auburnwa.gov
www.auburnwa.gov

PRELIMINARY SUBDIVISION (PLAT)

APPLICATION

RECEIVED

JAN 15 2014

CITY OF AUBURN
PERMIT CENTER

PRELIMINARY SUBDIVISION (PLAT) – LETTER OF AUTHORIZATION

(A copy of this letter must be submitted for each property owner involved)

I, Kari Priest
Richard Priest declare under penalty of perjury under the laws of the State of Washington as follows;

1. I am the owner of the property that is the subject of the application.
PNW Home Builders North, LLC
2. I [] have not appointed anyone, or ☒ have appointed _____, to act as my agent regarding this application.
3. All statements, answers, and information submitted with this application are true and correct to the best of my knowledge and belief.
4. I agree to hold the City of Auburn harmless as to any claim (including costs, expenses and attorney's fees incurred in the investigation of such claim) which may be made by any person, including the undersigned, and filed against the City of Auburn, but only where such claim arises out of the reliance of the City, including its officers and employees, upon the accuracy of the information provided to the City as part of this application.
5. I hereby grant permission for representatives of the City of Auburn and any other Federal, State, or local unit of government with regulatory authority over the project to enter onto my property to inspect the property, take photographs, and post public notices as required in connection with review of this application and for compliance with the terms and conditions of permits and approvals issued for the project.

Kari Priest Richard Priest
Signature

Kari Priest
Printed Name

5/6/13
Date

Bonney Lake, WA
City and State where signed

7002 183rd Ave E.
Bonney Lake, WA 98391
Address



CITY OF AUBURN

Planning & Development Department
Auburn City Hall Annex, 2nd Floor
1 East Main Street
Auburn, WA 98001-4998
Tel: 253.931.3090
Fax: 253.804.3114
permitcenter@auburnwa.gov
www.auburnwa.gov

PRELIMINARY SUBDIVISION (PLAT)
APPLICATION

RECEIVED
JAN 15 2014

CITY OF AUBURN
PERMIT CENTER

PRELIMINARY SUBDIVISION (PLAT) – LETTER OF
AUTHORIZATION

(A copy of this letter must be submitted for each property owner involved)

I, Kristie Hemphill
Kari J. Priest declare under penalty of perjury under the laws of the State of Washington
as follows;

1. I am the owner of the property that is the subject of the application.
PNW Home Builders North, LLC
2. I [] have not appointed anyone, or ☒ have appointed _____, to act as my agent
regarding this application.
3. All statements, answers, and information submitted with this application are true and correct to the
best of my knowledge and belief.
4. I agree to hold the City of Auburn harmless as to any claim (including costs, expenses and
attorney's fees incurred in the investigation of such claim) which may be made by any person,
including the undersigned, and filed against the City of Auburn, but only where such claim arises out
of the reliance of the City, including its officers and employees, upon the accuracy of the information
provided to the City as part of this application.
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local unit of government with regulatory authority over the project to enter onto my property to inspect
the property, take photographs, and post public notices as required in connection with review of this
application and for compliance with the terms and conditions of permits and approvals issued for the
project.

Kristie Hemphill
Signature

Kristie Hemphill

Printed Name

Kari Priest
Signature

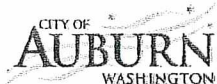
Kari Priest

5/06/2013
Date

Auburn, WA.
City and State where signed

32418 46th Pl. So
Auburn, WA 98001

Address



CITY OF AUBURN

Planning & Development Department
Auburn City Hall Annex, 2nd Floor
1 East Main Street
Auburn, WA 98001-4998
Tel: 253.931.3090
Fax: 253.804.3114
permitcenter@auburnwa.gov
www.auburnwa.gov

PRELIMINARY SUBDIVISION (PLAT)
APPLICATION

RECEIVED
JAN 15 2014
CITY OF AUBURN
PERMIT CENTER

PRELIMINARY SUBDIVISION (PLAT) – LETTER OF
AUTHORIZATION

(A copy of this letter must be submitted for each property owner involved)

DONALD J FOLSON AND
I, JUDITH LYNN FOLSON declare under penalty of perjury under the laws of the State of Washington
as follows;

1. I am the owner of the property that is the subject of the application.
PNW Home Builders North, LLC
2. I ☐ have not appointed anyone, or ☒ have appointed _____, to act as my agent
regarding this application.
3. All statements, answers, and information submitted with this application are true and correct to the
best of my knowledge and belief.
4. I agree to hold the City of Auburn harmless as to any claim (including costs, expenses and
attorney's fees incurred in the investigation of such claim) which may be made by any person,
including the undersigned, and filed against the City of Auburn, but only where such claim arises out
of the reliance of the City, including its officers and employees, upon the accuracy of the information
provided to the City as part of this application.
5. I hereby grant permission for representatives of the City of Auburn and any other Federal, State, or
local unit of government with regulatory authority over the project to enter onto my property to inspect
the property, take photographs, and post public notices as required in connection with review of this
application and for compliance with the terms and conditions of permits and approvals issued for the
project.

Donald J Folson
Judith Lynn Folson
Signature

Judith Lynn Folson 5/6/13
Printed Name Date

PORT LUDLOW, WASHINGTON
City and State where signed

135 TIMBER HEIGHTS DRIVE
PORT LUDLOW WA 98365

Address



CITY OF AUBURN

Planning & Development Department
Auburn City Hall Annex, 2nd Floor
1 East Main Street
Auburn, WA 98001-4998
Tel: 253.931.3090
Fax: 253.804.3114
permitcenter@auburnwa.gov
www.auburnwa.gov

**PRELIMINARY SUBDIVISION (PLAT)
APPLICATION**

RECEIVED

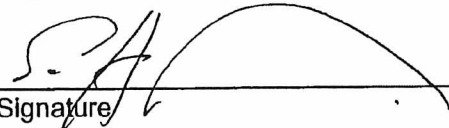
JAN 17 2014
CITY OF AUBURN
PERMIT CENTER

**PRELIMINARY SUBDIVISION (PLAT) – LETTER OF
AUTHORIZATION**

(A copy of this letter must be submitted for each property owner involved)

I, CamWest Federal Way, LLC declare under penalty of perjury under the laws of the State of Washington as follows;

1. I am the owner of the property that is the subject of the application.
2. I ☐ have not appointed anyone, or ☒ have appointed PNW Home Builders North, LLC, to act as my agent regarding this application.
3. All statements, answers, and information submitted with this application are true and correct to the best of my knowledge and belief.
4. I agree to hold the City of Auburn harmless as to any claim (including costs, expenses and attorney's fees incurred in the investigation of such claim) which may be made by any person, including the undersigned, and filed against the City of Auburn, but only where such claim arises out of the reliance of the City, including its officers and employees, upon the accuracy of the information provided to the City as part of this application.
5. I hereby grant permission for representatives of the City of Auburn and any other Federal, State, or local unit of government with regulatory authority over the project to enter onto my property to inspect the property, take photographs, and post public notices as required in connection with review of this application and for compliance with the terms and conditions of permits and approvals issued for the project.


Signature

Eric H. Campbell 7/10/13
Printed Name President of Camwest Development, LLC, Member Date

Kirkland, Wa
City and State where signed

11415 Slater Ave NE, suite 100
Kirkland, Wa 98033

Address



CITY OF AUBURN

Planning & Development Department
Auburn City Hall Annex, 2nd Floor
1 East Main Street
Auburn, WA 98001-4998
Tel: 253.931.3090
Fax: 253.804.3114
permitcenter@auburnwa.gov
www.auburnwa.gov

PRELIMINARY SUBDIVISION (PLAT)
APPLICATION

RECEIVED
JAN 15 2014
CITY OF AUBURN
PERMIT CENTER

PRELIMINARY SUBDIVISION (PLAT) – LETTER OF
AUTHORIZATION

(A copy of this letter must be submitted for each property owner involved)

INC.
I, THE SAMARA-HUBNER, declare under penalty of perjury under the laws of the State of Washington
as follows;

1. I am the owner of the property that is the subject of the application.
PNW Home Builders North, LLC
2. I ☐ have not appointed anyone, or ☒ have appointed _____, to act as my agent
regarding this application.
3. All statements, answers, and information submitted with this application are true and correct to the
best of my knowledge and belief.
4. I agree to hold the City of Auburn harmless as to any claim (including costs, expenses and
attorney's fees incurred in the investigation of such claim) which may be made by any person,
including the undersigned, and filed against the City of Auburn, but only where such claim arises out
of the reliance of the City, including its officers and employees, upon the accuracy of the information
provided to the City as part of this application.
5. I hereby grant permission for representatives of the City of Auburn and any other Federal, State, or
local unit of government with regulatory authority over the project to enter onto my property to inspect
the property, take photographs, and post public notices as required in connection with review of this
application and for compliance with the terms and conditions of permits and approvals issued for the
project.

THE SAMARA-HUBNER, INC.

by Herald Hubner President
Signature HERALD HUBNER

Herald Hubner
Printed Name Date 5-9-13

Normandy Park, WA

City and State where signed

19655 1st Avenue South, #209

Normandy Park, WA 98148

Address

**NOTICE OF APPLICATION (NOA)
Auburn Assemblage Preliminary Plat
PLT13-0006 / REZ13-0003 / SEP13-0030**

The City of Auburn is issuing a Notice of Application (NOA), for the proposal described below. This notice is being sent as these applications may be of interest to you. The permit applications and listed studies may be reviewed at the Auburn Planning and Development Department at 1 East Main Street, 2nd Floor, Customer Service Center, Auburn, WA 98001.

Proposal: To rezone and subdivide an approximately 34.35-acre site into 154 single-family residential lots and 20 tracts, and associated stormwater facilities, public streets, utilities, landscaping, and approximately 321,000 cubic yards of cut and fill.

Location: The project site is located on the south side of S 321st ST, between 46th Place S and 51st AVE S, within the SE ¼ of Section 15-21-04. King County Assessor Parcel No's: 1521049017, 1521049157, 1521049001, 1521049019, 1521049020, 9262800194, 9262800201, 9262800203, 9262800271.

Date Application Filed: October 1, 2013
Notice of Application: February 12, 2014
Notice of Completeness: February 10, 2014

File Nos. Prel. Plat Application - PLT13-0006
Rezone Application - REZ13-0003
Envir. Checklist Application - SEP13-0030

Applicant /Agent: Katie Stecks
Polygon Northwest Company
11624 SE 5th Street, Suite 200
Bellevue, WA 98005

Studies/Plans Submitted With Application:

- Preliminary Geotechnical Report, Earth Solutions NW, LLC, June 26, 2013
- Traffic Impact Analysis, Transportation Engineering NorthWest, January 15, 2014
- Critical Areas Field Reconnaissance Report, Wetland Resources, Inc., May 21, 2013

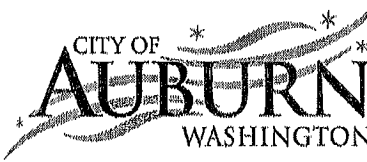
Additional Studies/Plans to be Provided:

- Preliminary Grading Report

Other Permits, Plans, and Approvals Needed:

- City Approvals: Facility Extension for Public Improvements, Grading Permit, Utility Permits, Final Plat, Demolition Permits, Building Permits and Right-of-way vacation
- State Approvals: Forest Practice Application

Statement of Consistency and List of Applicable Development Regulations: This proposal is subject to and shall be consistent with the Auburn City Code, Comprehensive Plan, and Public Works Design and Construction Standards.



AFFIDAVIT OF MAILING OF APPLICATION NOTICE

Application Number: PLT13-0006 / REZ13-0003 / SEP13-0030

Applicant: Katie Stecks
Polygon Northwest Company
11624 SE 5th Street, Suite 200
Bellevue, WA 98005

Agent: Same as Applicant

Location: The project site is located on the south side of S 321st ST, between 46th Place S and 51st AVE S, within the SE ¼ of Section 15-21-04. King County Assessor Parcel No.s 1521049017, 1521049157, 1521049001, 1521049019, 1521049020, 9262800194, 9262800201, 9262800203, 9262800271

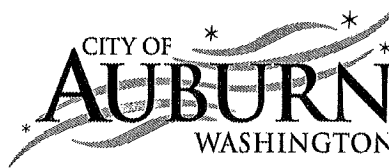
Closing Date for Public Comments: February 27, 2014

I certify that on February 12, 2014, I did send a Notice of Application for the above referenced applications, as required by Auburn City Code 14.07, to all property owners located within 350 feet of the affected site. Said Notice was mailed pre-paid stamped through the United States Postal Service at least 15 days prior to the closing date for public comments noted above.

I declare under penalty of perjury of the laws of the State of Washington that the foregoing is true and correct.

A handwritten signature in cursive script, appearing to read "Tina Kriss", written over a horizontal line.

Tina Kriss – Planning and Development Secretary



AFFIDAVIT OF POSTING OF LEGAL NOTICE BY APPLICANT

Application Number: PLT13-0006 / REZ13-0003 / SEP13-0030

Applicant: Katie Stecks
Polygon Northwest Company
11624 SE 5th Street, Suite 200
Bellevue, WA 98005

Agent: Same as Applicant

Location: The project site is located on the south side of S 321st ST, between 46th Place S and 51st AVE S, within the SE ¼ of Section 15-21-04. King County Assessor Parcel No's. 1521049017, 1521049157, 1521049001, 1521049019, 1521049020, 9262800194, 9262800201, 9262800203, 9262800271.

Closing Date for Public Comments: February 27, 2014

I certify that on Feb 12, 2014 I did erect a land use posting board at the location above, which included a Notice of Application for the above referenced application, as required by Auburn City Code 1.27 and 14.07. The board was erected at least 15 days prior to the closing date for public comments noted above.

I declare under penalty of perjury of the laws of the State of Washington that the foregoing is true and correct.

Richard Dapcency (SIBOMAKERS, INC.)
Name (please print or type) Date

RS
Signature

NOTE

This affidavit must be returned to the Planning and Development Department at least one week prior to the closing date for public comments or review of the application may be postponed.

The Seattle Times

City of Auburn, Finance Dept
City Clerk
25 W Main St

Auburn, WA 98001

Re: Advertiser Account # 107302
Ad #: 406915

Agency Account #: 0
Agency Name:

Affidavit of Publication

STATE OF WASHINGTON
Counties of King and Snohomish

The undersigned, on oath states that he/she is an authorized representative of The Seattle Times Company, publisher of The Seattle Times of general circulation published daily in King and Snohomish Counties, State of Washington. The Seattle Times has been approved as a legal newspaper by others of the Superior Court of King and Snohomish Counties.

The notice, in the exact form annexed, was published in the regular and entire issue of said paper or papers and distributed to its subscribers during all of the said period.

Newspaper and Publication Date(s)

Seattle Times

02/12/14

Agent MAUREEN E. WOOD

Signature

Maureen E. Wood

Subscribed and sworn to before me on

Feb 13, 2014

DATE

Christina C. McKenna

Christina C. McKenna

(Notary Signature) Notary Public in and for the State of Washington, residing at Seattle

The Seattle Times

Re: Advertiser Account # 107302

Ad #: 406915

Agency Account #: 0

Agency Name:

AD TEXT

CITY OF AUBURN NOTICE OF APPLICATION.

The City of Auburn is issuing a Notice of Application (NOA), for the following described project. The permit applications and listed studies may be reviewed at the Auburn Planning and Development Department at 1 E Main St, 2nd Floor, Customer Service Center, Auburn, WA 98001.

Proposal: To rezone and subdivide an approximately 34.35-acre site into 154 single-family residential lots and 20 tracts, and associated stormwater facilities, public streets, utilities, landscaping, and approximately 321,000 cubic yards of cut and fill.

Location: The project site is located on the south side of S 321st ST, between 46th Place S and 51st AVE S, within the SE 1/4 of Section 15-21-04, King County Assessor Parcel No's: 1521049017, 1521049157, 1521049001, 1521049019, 1521049020, 9262800194, 9262800201, 9262800203, 9262800271.

Notice of Application: February 12, 2014.

Notice of Completeness: February 10, 2014.

Permit Application: October 1, 2013.

File No. PLT13-0006, REZ13-0003 & SEP13-0030.

Applicant/Property Owner: Katie Stecks, Polygon Northwest Company, 11624 SE 5th ST, Ste. 200, Bellevue, WA 98005.

Agent: Katie Stecks, Polygon Northwest Company, 11624 SE 5th ST, Ste. 200, Bellevue, WA 98005.

Studies/Plans Submitted With Application: Preliminary Geotechnical Report, Earth Solutions NW, LLC, June 26, 2013; Traffic Impact Analysis, Transportation Engineering Northwest, January 15, 2014; and Critical Areas Field Reconnaissance Report, Wetland Resources, Inc., May 21, 2013.

Other Permits, Plans, and Approvals Needed: Facility Extension for Public Improvements, Grading Permit, Utility Permits, Final Plat, Demolition Permits, Building Permits, ROW vacation from the City of Auburn as well as Forest Practice Application.

Statement of Consistency and List of Applicable Development Regulations: This proposal is subject to and shall be consistent with the Auburn City Code, Comprehensive Plan, and Public Works Design and Construction Standards.

Lead Agency: City of Auburn.

Public Comment Period: All persons may comment on this application. Comments must be in writing and submitted by 5:00pm on February 27, 2014 to the mailing address of 25 West Main Street, Auburn, WA, 98001-4998 and physical location at: 1 East Main Street, Auburn, WA 98001. Please reference File numbers PLT13-0006 / REZ13-0003 / SEP13-0030. Any person wishing to become a party of record, shall include in their comments that they wish to receive notice of and participate in any hearings, if relevant, and request a copy of decisions once made. For questions regarding this project, please contact David L. Jones, Senior Planner at djones@auburnwa.gov or (253) 804-5031.

**Determination of Non-Significance
Auburn Assemblage
Polygon Northwest Company
Preliminary Plat & Rezone
SEP13-0030**

Description of Proposal: Rezone and subdivide nine (9) parcels representing approximately 34.35 acres from R5, Residential – 5 Dwelling Units per Acre (du/ac) to R7, Residential – 7 du/ac into 154 single-family residential lots and 20 tracts, and associated stormwater facilities, public streets, utilities, landscaping, and approximately 321,000 cubic yards of cut and fill.

Applicant: Nick Abdelnour
PNW Home Builder North, LLC
11624 SE 5th Street, Suite 200
Bellevue, WA 98005

Location: The project site is located on the south side of South 321st Street, between 46th Place South and 51st Avenue South, within the SE ¼ of Section 15-21-04. Tax parcel No's. 1521049017, 1521049157, 1521049001, 1521049019, 1521049020, 9262800194, 9262800201, 9262800203, 9262800271.

Lead Agency: City of Auburn

The lead agency for this proposal has determined that it does not have probable significant adverse impact on the environment. An environmental impact statement (EIS) is not required under RCW 43.21C.030(2)(c). This decision was made after review of a completed environmental checklist and other information on file with the lead agency. This information is available to the public on request.

This DNS is issued under 197-11-340(2); the lead agency will not act on this proposal for 14 days from the date issued below. Comments must be submitted by 5:00 p.m. on **June 17, 2014**.

Any person aggrieved of the City's determination may file an appeal with the Auburn City Clerk within 14 days of the close of the comment period, or by 5:00 p.m. on **July 1, 2014**.

Responsible Official: Jeff Tate
Position/Title: Assistant Director
Address: 25 West Main Street
Auburn, Washington 98001
253-931-3090

Date Issued: **June 3, 2014**

Signature: _____

Jeff Tate, Assistant Director
Community Development & Public Works Department

Note: This determination does not constitute approval of the proposal. Approval of the proposal can only be made by the legislative or administrative body vested with that authority. The proposal will be required to meet all applicable regulations.

CITY OF AUBURN
ENVIRONMENTAL CHECKLIST

Project: Auburn Assemblage
Preliminary Plat

Applicant: PNW Home Builder North, LLC
Attn: Nick Abdelnour
11624 SE 5th Street, Suite 200
Bellevue, Washington 98005
(425) 586-7700

Representative/Contact: Core Design, Inc.
Attn: Lafe Hermansen
14711 NE 40th Place, Suite 101
Bellevue, Washington 98007
Phone: (425) 885-7877

Date: September 20, 2013
Updated: March 31, 2014

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Appendices

Appendix A -- Legal Description

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ENVIRONMENTAL CHECKLIST

INTRODUCTION

Purpose of Checklist:

The State Environmental Policy Act (SEPA), Chapter 43.21C RCW, requires all governmental agencies to consider the environmental impacts of a proposal before making decisions. An environmental impact statement (EIS) must be prepared for all proposals with probable significant adverse impacts on the quality of the environment. The purpose of this checklist is to provide information to help you and the agency identify impacts from your proposal (and to reduce or avoid impacts from the proposal, if it can be done) and to help the agency decide whether an EIS is required.

Instructions for Applicants:

This environmental checklist asks you to describe some basic information about your proposal. Governmental agencies use this checklist to determine whether the environmental impacts of your proposal are significant, requiring preparation of an EIS. Answer the questions briefly, with the most precise information known, or give the best description you can.

You must answer each question accurately and carefully, to the best of your knowledge. In most cases, you should be able to answer the questions from your own observations or project plans without the need to hire experts. If you really do not know the answer or if a question does not apply to your proposal, write "do not know" or "does not apply". Complete answers to the questions now may avoid unnecessary delays later.

Some questions ask about governmental regulations, such as zoning, shoreline, and landmark designations. Answer these questions if you can. If you have problems, the governmental agencies can assist you.

The checklist questions apply to all parts of your proposal, even if you plan to do them over a period of time or on different parcels of land. Attach any additional information that will help describe your proposal or its environmental effects. The agency to which you submit this checklist may ask you to explain your answers or provide additional information reasonably related to determining if there may be significant adverse impact.

Use of checklist for nonproject proposals: (A nonproject proposal includes plans, policies and programs where actions are different or broader than a single site-specific proposal)

Complete this checklist for nonproject proposals, even though questions may be answered "does not apply". IN ADDITION, complete the SUPPLEMENTAL SHEET FOR NONPROJECT ACTIONS (part D).

For nonproject actions, the references in the checklist to the word "project", "applicant", and "property or site" should be read as "proposal," "proposer", and "affected geographic area," respectively.

A. BACKGROUND

1. **Name of proposed project, if applicable:**

Auburn Assemblage
Preliminary Plat

2. **Name of applicant:**

PNW Home Builder North, LLC

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

Applicant:
PNW Home Builder North, LLC
Attn: Nick Abdelnour
11624 SE 5th Street, Suite 200
Bellevue, Washington 98005
(425) 586-7700

Contact Person:
Core Design, Inc.
Attn: Lafe Hermansen
14711 NE 40th Place, Suite 101
Bellevue, Washington 98007
(425) 885-7877

4. **Date checklist prepared:**

September 20, 2013

5. **Agency requesting checklist:**

City of Auburn
Community Development Department

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

Plat construction is scheduled to start in the late spring/early summer of 2014, subject to the approval process and market demands. Home construction is proposed to start in the fall of 2014.

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

Not at this time.

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

Preliminary storm drainage report, prepared by Core Design, Inc.
Preliminary Traffic Study, prepared by Traffic Engineers NW
Environmental Study, prepared by Earth Solutions NW, LLC
Geotechnical Engineering Study, prepared by Earth Solutions NW, LLC
Wetland and Stream Report and Mitigation Plan, prepared by Wetland Resources, Inc.

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.**

None to our knowledge.

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

Preliminary Plat Approval
SEPA Determination
Forest Practices Permit (if required)
Drainage Plan Approval
Water and Sewer Construction Plan Approval
Grading Permit
Final Plat Approval
Residential Building Permits

11. Give a 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.)

This application proposes a 154 lot preliminary plat on a 33.706-acre site under the existing requirements for an R-7 zone. The homes are anticipated to be in the middle income price range. The proposal includes a rezone from R-5 to R-7.

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 project is located at 5021 S 321st Street in the NE ¼, Section 15, Township 21N, Range 4E. A legal description and vicinity map is attached hereto and incorporated by reference.

Parcel Numbers: 1521049017, 1521049157, 1521049019, 1521049020, 1521049001, 9262800271, 9262800194, 9262800201, 9262800203

B. ENVIRONMENTAL ELEMENTS

1. Earth

- a. **General description of the site (circle one): Flat, rolling, hilly, steep slopes, mountainous other**

The site generally slopes from the high point of the site at Approx. Elev. 500' down to the low point of the site, Approx. Elev. 380'.

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

The steepest slope is approximately 45% (Elevation change of 20') in the southeastern portion of the property.

- 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 prime farmland.**

According to the Geotechnical Engineering Study the majority of the site is underlain by Glacial Till (Qgt).

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

No, not to our knowledge.

- e. **Describe the purpose, type, and approximate quantities of any filling or grading proposed. Indicate source of fill.**

The purpose of the grading is to construct the proposed public streets to City standards and to provide building pads and utility locations for single family residences. The grading will require imported material, with cuts (110,000 cy) and fill (210,000 cy) with the total of $\pm$ 321,000 cubic yards. A fill source statement will be submitted. Please refer to the Preliminary Grading and Utility Plans prepared by Core Design, Inc for additional information.

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

Erosion could occur as a result of denuded soil during and immediately following storm events. However, the use of BMP's is expected to mitigate any modest erosive situations.

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

Approximately 75% (Maximum allowed by Code) will be covered by impervious surface.

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

A temporary erosion and sedimentation control (TESCP) plan will be prepared and implemented prior to commencement of construction activities. During construction erosion control measures may include any of the following: siltation fence, temporary siltation ponds and other measures which may be used in accordance with requirements of the City. At completion of the project, permanent measures will include stormwater runoff detention and water quality facilities as required. The storm water discharge pipe which conveys runoff from the detention pond, will be constructed along existing roadways to a point at the top of a steep slope above Mill Creek, which has been classified as a Class IV Landslide Hazard Area. The pipe will be constructed with heat-welded Driscopipe, laid above ground to minimize any disturbance to the existing vegetation and slope. It will be anchored with rods driven into the soil at appropriate intervals. At the base of the slope, an energy dissipater catch basin will receive the flows, releasing water directly to Mill Creek, which is a concrete lined roadside ditch. This will protect the area from erosion and minimize disturbance.

2. Air

a. What types of emissions to the air would result from the proposal (i.e., dust, automobile, odors, industrial wood smoke) during construction and when the project is completed? If any, generally describe and give approximate quantities if known.

During construction, there will be increased exhaust and dust particle emissions. After construction, the principle source of emissions will be from automobile traffic, lawn equipment, and others typical of a residential neighborhood.

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

Off-site sources of emissions or odors are those typical of the residential neighborhoods that surround this site, such as automobile emissions from traffic on adjacent roadways and fireplace emissions from nearby homes.

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

Construction impacts will not be significant and can be controlled by several methods: watering or using dust suppressants on areas of exposed soils, washing truck wheels before leaving the site, and maintaining gravel construction entrances.

Automobile and fireplace emission standards are regulated by the State of Washington. The site has been included in a "No Burn Zone" by the Puget Sound Air Pollution Control Agency which went into effect on September 1, 1992. No land clearing or residential yard debris fires would be permitted on-site, nor in the surrounding neighborhood in accordance with the regulation.

3. Water

a. Surface:

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.

There is a known seasonal stream and associated wetland located offsite, to the south of the project.

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

No.

- 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.

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

No, there will be no surface water withdrawals or diversions.

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

No.

- 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.

No, a public sanitary sewer system will be installed to serve the future homes.

b. Ground:

- 1) Will ground water be withdrawn, or will water be discharged to ground water? Give general description, purpose, and approximate quantities if known.

No groundwater will be withdrawn, public water mains will be installed as part of the plat construction. No water will be discharged to groundwater except through the incidental infiltration of stormwater.

- 2) Describe waste material that will be discharged into the ground from septic tanks or other sources, if any (for example: 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, The site will be served by sanitary sewers.

c. Water Runoff (including storm water):

- 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.

Stormwater runoff from roadways and other impervious surfaces will be collected and routed to the detention/wet pond facility (+/-600,000 C.F.) located on-site, treated for sediment and petroleum removal before being released. The storm water discharge pipe which conveys runoff from the detention pond, will be constructed along existing roadways to a point at the top of a steep slope above Mill Creek. The

pipe will be constructed with heat-welded Driscopipe, laid above ground to minimize any disturbance to the existing vegetation and slope. It will be anchored with rods driven into the soil at appropriate intervals. At the base of the slope, an energy dissipater catch basin will receive the flows, releasing water directly to Mill Creek, which is a concrete lined roadside ditch. This will protect the area from erosion and minimize disturbance.

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

This would be very unlikely. The only materials that could enter ground or surface waters would be those associated with automobile discharges and yard and garden preparations. Pollutants generated during construction include suspended solids and trace petroleum hydrocarbons. Following construction, the two primary sources of pollutants include roadways and landscaping chemicals. Roadway runoff includes trace petroleum hydrocarbons and trace metals. Landscaping chemicals include fertilizers, pesticides and herbicides. Following construction these potential pollutants can be generated both by our site and surrounding properties.

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

A City approved storm drainage system will be designed and implemented in order to mitigate any adverse impacts from stormwater runoff. This system will include an approximately 665,000 cf detention/water quality pond. During construction the storm system and the rest of the site sediment control could include temporary erosion control barriers; Chemical treatment, i.e. Chitosan or other chemical floccer, silt fence filtration, ground covering, and either a sediment trap or pond. Soon after the beginning of the site development the permanent stormwater collection/treatment will be constructed to not only maintain the future runoff from the site, but also to control erosion and sediment during construction. This permanent system will ensure that prior to the release of stormwater into the downstream storm system the system will have significantly reduced the potential impacts to ground and surface waters. As described above, the discharge pipe on the slope above Mill Creek will be laid above ground and anchored to the slope to minimize the disturbance of the existing vegetation and slope. It will discharge into an energy dissipater structure at the edge of Mill Creek.

4. **Plants**

a. **Check or underline types of vegetation found on the site:**

- X deciduous tree: alder, maple, aspen, other:
- X evergreen tree: fir, cedar, pine, other: hemlock
- X shrubs
- X grass
- pasture
- wet soil plants: cattail, creeping buttercup, bullrush, skunk cabbage, horsetail,
- water plants: water lily, eelgrass, milfoil, other:
- other types of vegetation:

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

The property will be cleared for site construction. Please refer to the preliminary landscape plan.

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

No threatened or endangered plants are known to exist on the site.

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

The yard areas associated with individual ownership will be landscaped by the applicant, and further by future residents. In addition park areas and landscaping area will be owned and maintained by the future HOA.

5. Animals

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

birds: hawk, heron, eagle, songbirds, other:
mammals: deer, bear, elk, beaver, other: squirrel
fish: bass, salmon, trout, herring, shellfish, other:

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

No threatened or endangered species are known to exist on the site.

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

Not to our knowledge.

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

The yard areas associated with individual ownership will be landscaped by the applicant, and further by future residents. In addition park areas and landscaping area will be owned and maintained by the future HOA.

6. Energy and Natural Resources

- 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.**

Electricity and/or natural gas will be the primary source of energy used to provide heating and cooling to each home. These forms of energy are immediately available to the site. The builder will provide the appropriate heating and cooling systems which are energy efficient and cost effective for the homebuyer.

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

No.

- 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:**

The requirements of the Uniform Building Code and the State Energy Code will be incorporated into the construction of the buildings. Energy conserving materials and fixtures will be evaluated for suitability in all new construction.

7. Environmental Health

- 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.

The project will not generate any environmental health hazards.

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

None to our knowledge.

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

There are no on-site environmental health hazards known to exist today nor are there any that will be generated as a direct result of this proposal.

b. Noise

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

The main source of off-site noise in this area originates from the vehicular traffic present on S. 321st Street.

- 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.

Short-term noise impacts will result from the use of construction and building equipment during site development and home construction. These temporary activities will be limited to legal working hours as prescribed by City code.

Long-term impacts will be those associated with the increase of human population; additional traffic and noise associated with residential areas will occur in the area.

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

Building construction will be done during the hours prescribed by the City of Auburn. Construction equipment will be equipped with muffler devices and idling time will be encouraged to be kept at a minimum.

8. Land and Shoreline Use

- a. What is the current use of the site and adjacent properties?

The site currently has three single-family detached home and associated outbuildings.

The current use of the adjacent properties is as follows;

North:	S 321 st Street
South:	Single-Family Homes
East:	Single-Family Homes
West:	Single-Family Homes

- b. **Has the site been used for agriculture? If so, describe:**

Not to our knowledge.

- c. **Describe any structures on the site.**

There are two existing homes, one burned out home, barn and associated outbuilding currently on the site.

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

Yes. All existing structures will be removed. Except for the exiting home in the northeast corner will remain.

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

The current zoning is R-5 with a requested rezone to R-7.

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

The current comprehensive plan designation is single family.

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

Not applicable.

- h. **Has any part of the site been classified as an "environmentally sensitive" area? If so, specify.**

Yes, there are currently two isolated, insignificant areas on the site that are classified as a Class IV Landslide Hazard area per the City of Auburn standards (>40% slope, 10' in height). The geotechnical analysis indicates that the hazard risk for the two areas is minimal given the soils conditions, isolated nature of the areas and apparent stability of the existing site conditions. We have submitted a Director's Interpretive request and an administrative variance is being submitted to the City in order to further reduce the size of the Class IV Landslide Hazard areas by analyzing the conditions as discussed with City staff (>40% slope, 11' in height). Using this analysis would eliminate the smaller (688 sq-ft) area all together and reduce the second area to approximately 880 sq-ft. The geotechnical analysis of the reduced area indicates that the hazard risk is minimal, given the soils conditions, isolated nature of this area, apparent stability of the existing site conditions, and the fact the proposed grading design calls for mass grading of up to 18' cuts and fills, completely altering and stabilizing the grades onsite.

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

Approximately 385 people (154 x 2.5 persons per dwelling unit).

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

None, the current residents are proponents of the project.

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

None, the current residents are proponents of the project.

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

The project will comply with the requested zoning of the site (R-7) and the homes will be of similar style and size to the surrounding homes.

9. Housing

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

The preliminary plat contains 153 new single-family residences and 1 existing home. The new homes are anticipated to be in the middle-income price range.

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

Two middle-income home will be removed.

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

The current residents, which will be relocating, are proponents of the project. The new development will provide 153 new homes to the housing inventory within the City of Auburn. One existing home will be retained by the current owner.

10. Aesthetics

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

The buildings will meet the height requirements of the R-7 zone and will not exceed the maximum number of stories allowed by code. The exterior building materials may include any of the following: wood, hardwood, masonry, cedar shakes and/or asphalt shingles.

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

None.

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

The project will comply with the current zoning of the site and will be similar in style and size to the surrounding neighborhoods.

11. Light and Glare

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

Light and glare will originate from street lights and exterior lighting. Light will also be produced from vehicles using on-site roads. These impacts could occur primarily in the evening and before dawn.

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

Not to our knowledge.

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

The only offsite source of light and glare are from vehicles and street lighting from the adjacent streets and the single-family neighborhoods.

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

Street lighting, when deemed necessary, will be installed in a manner that directs the lighting downward.

12. Recreation

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

Lake Geneva Park is located South of the site near the intersection of Military Road and S. 344th Street.

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

No.

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

The neighborhood will provide open space tracts for the residents that will include active recreation areas.

13. Historic and Cultural Preservation

a. Are there any places or objects listed on, or proposed for, national, state, or local preservation registers known to be on or next to the site? If so, generally describe.

No.

b. Generally describe any landmarks or evidence of historic, archaeological, scientific, or cultural importance known to be on or next to the site.

None.

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

None, there are no known impacts. If an archeological site is found during the course of construction, the State Historical Preservation Officer will be notified.

14. Transportation

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

The project fronts S. 321st Street and 46th Place South.

- b. Is site currently served by public transit? If not, what is the approximate distance to the nearest transit stop?

No. There is no transit stop within walking distance of the site.

- c. **How many parking spaces would the completed project have? How many would the project eliminate?**

Four parking spaces will be provided in association with each home for a total of 616 spaces. These spaces will be located within garages and on driveways. Additional on-street parking spaces will be provided.

The existing homes, that will be removed, have space for approximately 6 cars to park, these spaces will be eliminated.

- d. **Will the proposal require any new roads or streets, or improvements to existing roads or streets, not including driveways? If so, generally describe (indicate whether public or private).**

Yes. The project is proposing a series of public roads to serve the site including stubs to the north (South 321st Street), west (46th Place South) as well as a right-of-way dedication east (51st Ave South). Please refer to the preliminary plat for a specific layout.

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

No.

- f. **How many vehicular trips per day would be generated by the completed project? If known, indicate when peak volumes would occur.**

Based on 152 net new homes (includes credit for 1 existing home to remain and 1 home to be removed), the project is estimated to generate 1,538 new weekday daily trips with 116 trips during the AM peak hour and 152 trips during the PM peak hour. Refer to the Traffic Impact Analysis for the project by Transportation Engineering NW for more detail.

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

Mitigation for any transportation impacts will occur through payment of the City of Auburn Traffic Mitigation Fee.

15. Public Services

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

The need for public service such as fire, health, and police protection will be typical of single family development of this size. The school children originating from the homes in this development will attend the schools in the Auburn School District.

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

The roads and homes will be constructed to meet all applicable standards and codes of the City and the Uniform Building Code. The proposed development will contribute to the local tax base and provide additional tax revenue for the various public services. The impact to the schools, parks and traffic will be mitigated through the payment of impact fees.

16. Utilities

a. Underline utilities currently available at the site:

electricity, natural gas, water, refuse service, telephone, sanitary sewer, septic system,
other.

All utilities are available to the site through the proper extension of services.
Extension of services is the developers' responsibility. The septic system will be
removed from service.

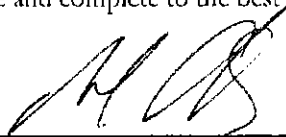
b. Describe the utilities that are proposed for the project, the utility providing
the service, and the general construction activities on the site or in the
immediate vicinity, which might be needed.

Electricity will be provided by Puget Sound Energy
Natural Gas will be provided by Puget Sound Energy
Water will be provided by Lakehaven Water & Sewer
Sewer will be provided by Lakehaven Water & Sewer
Telephone Service will be provided by Qwest.
Refuse Service will be provided by Waste Management
Cable TV will be provided by Comcast

C. SIGNATURE

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:


By: Nick Abdelnour
Its:

Date Submitted: September 20, 2013
Date Revised: January 14, 2014
March 5, 2014

LEGAL DESCRIPTION

CAMWEST

PARCEL A:

THE SOUTH HALF OF THE SOUTHEAST QUARTER OF THE NORTHEAST QUARTER OF THE NORTHEAST QUARTER OF SECTION 15, TOWNSHIP 21 NORTH, RANGE 4 EAST, WILLAMETTE MERIDIAN, IN KING COUNTY, WASHINGTON;

EXCEPT THE NORTH 165 FEET OF THE EAST 357.49 FEET THEREOF;

PARCEL B:

LOT 1 OF KING COUNTY SHORT PLAT 1280053R RECORDED SEPTEMBER 23, 1986 UNDER RECORDING NO. 8609230856, IN KING COUNTY, WASHINGTON.

PARCEL C:

LOT 2 OF KING COUNTY SHORT PLAT 1280053R RECORDED SEPTEMBER 23, 1986 UNDER RECORDING NO. 8609230856, IN KING COUNTY, WASHINGTON.

PARCEL D:

LOT 3, KING COUNTY SHORT PLAT NUMBER 1280053R, RECORDED UNDER RECORDING NUMBER 8609230856, IN KING COUNTY, WASHINGTON.

SITUATE IN THE COUNTY OF KING, STATE OF WASHINGTON

HEMPHILL/PRIEST

THE EAST 330 FEET OF THE SOUTH HALF OF THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER OF THE NORTHEAST QUARTER, IN SECTION 15, TOWNSHIP 21 NORTH, RANGE 4 EAST, W.M., IN KING COUNTY, WASHINGTON

PRIEST

LOT 2, KING COUNTY SHORT PLAT NUMBER 387019, ACCORDING TO THE SHORT PLAT RECORDED UNDER RECORDING NUMBER 8805240164;

SAID SHORT PLAT BEING A PORTION OF:

TRACT 34, WEST AUBURN FIVE ACRE TRACTS, ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 15 OF PLATS, PAGE 12, IN KING COUNTY, WASHINGTON;

EXCEPT THE SOUTH 300 FEET THEREOF;

TOGETHER WITH THAT PORTION OF VACATED STREET ADJOINING ON THE EAST THAT WOULD ATTACH BY OPERATION OF LAW.

FOLSOM

PARCEL A:

THE NORTH HALF OF THE SOUTH HALF OF THE NORTHEAST QUARTER OF THE NORTHEAST QUARTER OF SECTION 15, TOWNSHIP 21 NORTH, RANGE 4 EAST, W.M., IN KING COUNTY, WASHINGTON;

EXCEPT THE WEST 12 FEET THEREOF;

AND EXCEPT THE EAST 285 FEET THEREOF;

AND EXCEPT THAT PORTION IN 46TH PLACE SOUTH (KNICKERBACKER ROAD).

PARCEL B:

THE SOUTH 20 FEET OF THE WEST 105 FEET OF THE EAST 135 FEET OF THE NORTH HALF OF THE SOUTH HALF OF THE NORTHEAST QUARTER OF THE NORTHEAST QUARTER AND THE SOUTH 30 FEET OF THE WEST 150 FEET OF THE EAST 285 FEET OF THE NORTH HALF OF THE SOUTH HALF OF THE NORTHEAST QUARTER OF THE NORTHEAST QUARTER AND IN SECTION 15, TOWNSHIP 21 NORTH, RANGE 4 EAST, W.M., IN KING COUNTY, WASHINGTON.

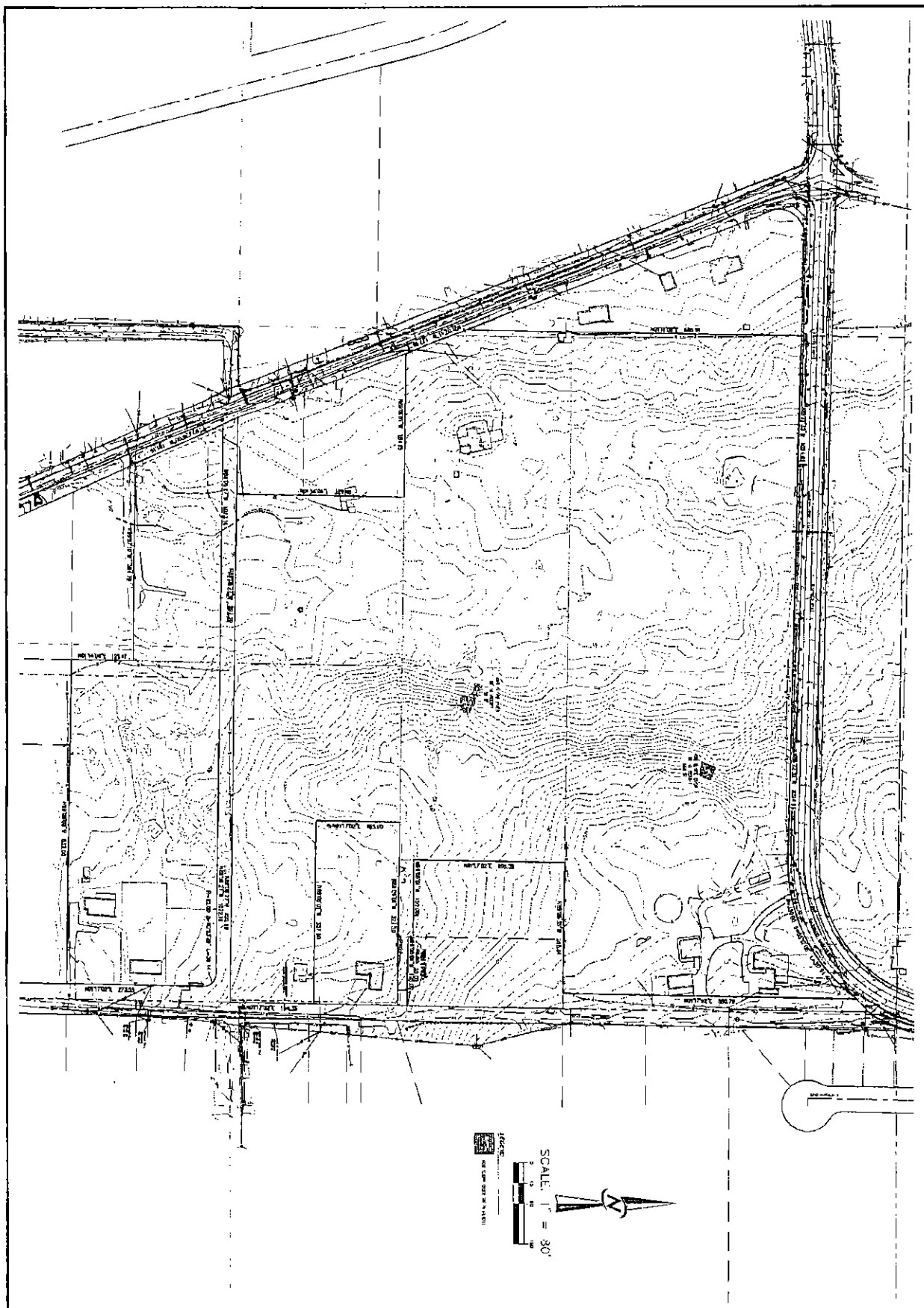
HUBNER

THE NORTH HALF OF THE NORTHEAST QUARTER OF THE NORTHEAST QUARTER AND THE WEST 12 FEET OF THE NORTH HALF OF THE SOUTH HALF OF SAID NORTHEAST QUARTER OF THE NORTHEAST QUARTER IN SECTION 15, TOWNSHIP 21 NORTH, RANGE 4 EAST, W.M., IN KING COUNTY, WASHINGTON;

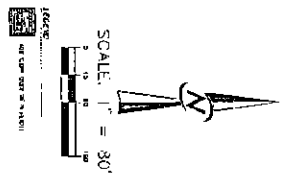
EXCEPT THAT PART IN ROADS.

SITUATE IN THE COUNTY OF KING, STATE OF WASHINGTON.


$$I'' = 2000'$$



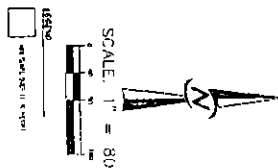
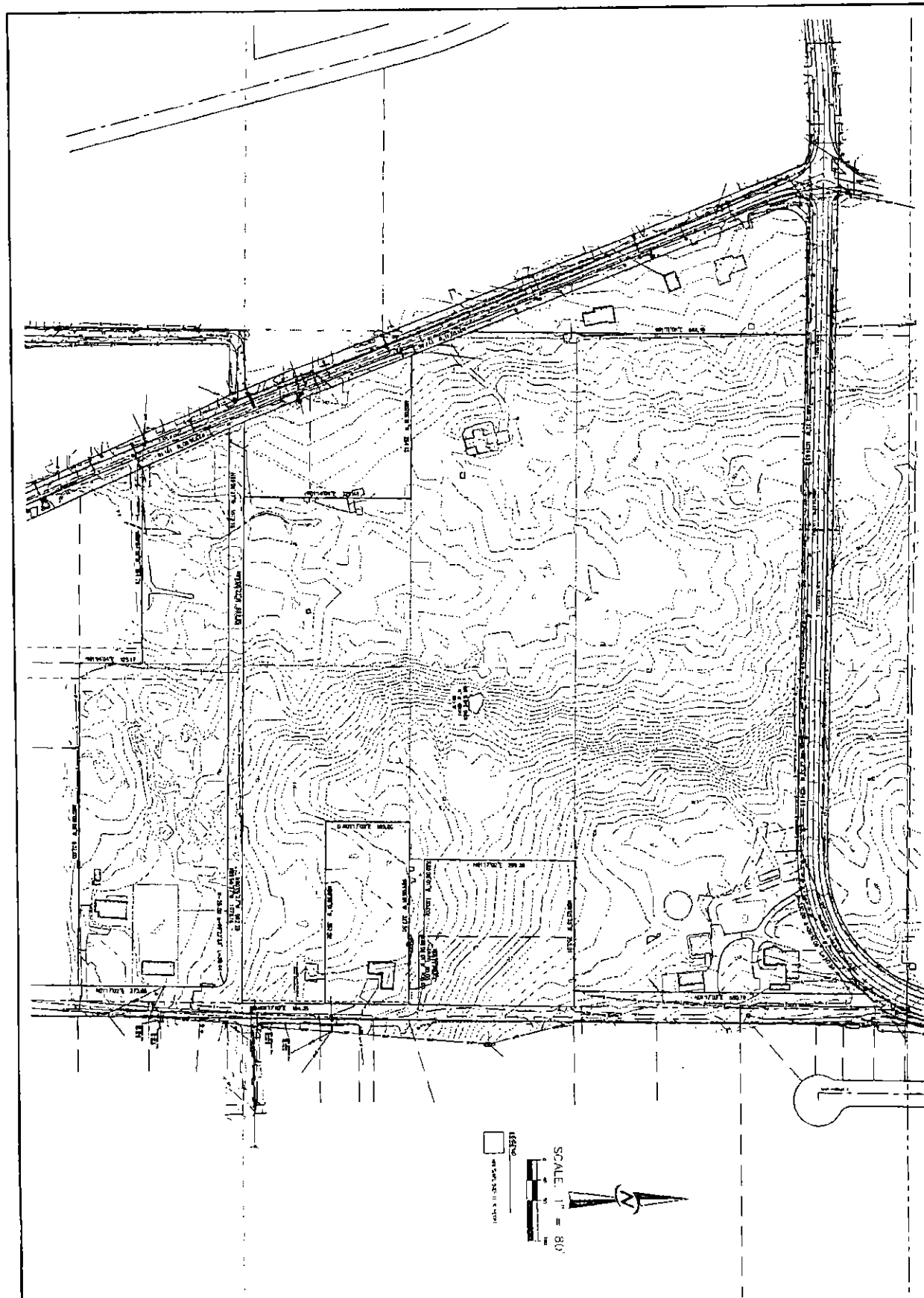
NE 1/4 & SE 1/4 NE 1/4 SEC. 15, TWP. 21N, RGE. 4E, W4N



SHEET 1 OF 1	DATE 03-21-2014	SLOPE ANALYSIS AUBURN ASSEMBLAGE PNW HOME BUILDERS NORTH, LLC 11024 SE 9TH STREET, SUITE 200 BELLEVUE, WA 98005	CORE DESIGN ENGINEERING • PLANNING • SURVEYING 14731 NE 28th Street, Suite 101 Bellevue, Washington 98007 425.875.7477 Fax 425.882.2763	REVISIONS NO. DESCRIPTION 1.
	DESIGNED BY			
	APPROVED BY			
	PROJECT MANAGER			

ORD.B

NE 1/4 & SE 1/4 NE 1/4 SEC. 15, TWP. 21N, RGE. 4E, W14



DATE	03-20-2014
DESIGNED	
DRAWN	
APPROVED	
BY	CLOW P. VMAQUE, P.E.
FOR	PNW HOME BUILDERS NORTH, LLC

SLOPE ANALYSIS
AUBURN ASSEMBLAGE
PNW HOME BUILDERS NORTH, LLC
 11224 SE 5TH STREET, SUITE 202
 BELLEVUE, WA 98003

CORE
 DESIGN
 ENGINEERING • PLANNING • SURVEYING
 11211 NE 28th Street, Suite 101
 Bellevue, Washington 98004
 206.885.7877 Fax 206.885.7843

DATE	03-20-2014
DESIGNED	
DRAWN	
APPROVED	
BY	
FOR	

FINAL STAFF EVALUATION FOR ENVIROMENTAL CHECKLIST (SEP13-0030)

Date: June 2, 2014

Project: Auburn Assemblage – Rezone and 154 Lot Preliminary Plat Request

Applicant/Agent: Nick Abdelnour
PNW Home Builder North, LLC
11624 SE 5th Street, Suite 200
Bellevue, WA 98005

Location: The project site is located on the south side of South 321st Street, between 46th Place South and 51st Avenue South, within the SE ¼ of Section 15-21-04.

Property Owner(s): The Samara-Hubner, Inc., Richard Priest, Kari Priest, Kristie Hemphill, Camwest Federal Way, LLC, Donald Folsom, Judith Folsom

Parcel No's. 1521049017, 1521049157, 1521049001, 1521049019, 1521049020, 9262800194, 9262800201, 9262800203, 9262800271

Project Size: Approximately 34.35 gross acres (675,615sf)

Proposal: Rezone and subdivide nine (9) parcels representing approximately 34.35 acres from R5, Residential – 5 Dwelling Units per Acre (du/ac) to R7, Residential – 7 du/ac for the purpose of a 154-lot preliminary plat subdivision.

Existing Zoning: R5 Residential, 5 Dwelling Units per Acre

Existing Comprehensive Plan Designation: Single-Family Residential

A. BACKGROUND:

Pursuant to WAC 197-11-340(2), the City of Auburn is required to send any Determination of Non-Significance/Mitigated Determination of Non-Significance (DNS/MDNS) which may result from this environmental review, along with the checklist, to the Washington State Department of Ecology (DOE), U.S. Army Corps of Engineers, or other agencies with jurisdiction, affected tribes, and interested parties. Therefore, the City will not act on this proposal for fifteen (15) days after the issuance of a DNS/MDNS.

- 8. Other Environmental Information:** Other environmental information prepared or will be prepared directly related to this proposal includes:
- Traffic Impact Analysis, prepared by Traffic Engineers, NW, dated September 19, 2013.
 - Field Reconnaissance for the Auburn Assemblage, prepared by Wetland Resources Inc. dated May 21, 2013.
 - Phase I Environmental Site Assessment, prepared by Earth Solutions NW, LLC, dated June 26, 2013, and revised March 31, 2014.
 - Geotechnical Engineering Study, prepared by Earth Solutions NW, LLC, dated June 26, 2013, 2014, and revised March 31, 2014 and Addendum dated March 4, 2014.
 - Preliminary plat plan, preliminary grading and clearing plan, preliminary utility plan, preliminary site details, preliminary road and utility profiles, preliminary storm outfall profiles, preliminary sanitary sewer profiles, preliminary stormwater pond sections, preliminary site sections, and sight distance exhibits prepared by Core Design, Inc, received January 23, 2014; and final plan set revisions received April 7, 2014.
 - Composite Landscape Plan, prepared by Core Design, Inc. dated September 2013, revised April 4, 2014.
 - Preliminary Stormwater Report, prepared by Core Design, Inc, dated September 2013, revised March 31, 2014, and Addendums received May 27, 2014.
 - Director's Environmental Code Interpretation related to Class IV Geologic Hazard areas, dated May 9, 2014.
 - Wetland and Stream Report and Mitigation Plan, prepared by Wetland Resources, Inc., dated January 19, 2014; revised on March 7, 2014.
- 9. Pending Approvals/Permits:** While the checklist response indicates there are no pending governmental approvals required to the knowledge of the Applicant, contrary to the checklist response, the following approvals/permits have been submitted to the City:
- Rezone request application has been submitted to the City and is referenced by File No. REZ13-0003.
 - Preliminary plat application has been submitted to the City and is referenced by File No. PLT13-0006.
- 10. Other Approvals/Permits Needed:** The checklist response indicates the following approvals/permits from the City of Auburn:
- Preliminary Plat Approval
 - SEPA Determination
 - Forest Practices Permit (if required)
 - Drainage Plan Approval
 - Water and Sewer Construction Plan Approval
 - Grading Permit
 - Final Plat Approval
 - Residential Building Permits

However, the specific approvals and permits that may be needed for the proposal include, but are not limited to, the following:

- Critical Areas Review, Final Mitigation Plan, Facilities Extension Agreement, Storm Permit, Water Permit, Sewer Permit (City of Auburn)
- Deviation to Traffic Design Standards (City of Auburn)
- Administrative Variance per ACC 16.10.160 (City of Auburn)
- Building Permit (City of Auburn)
- Special Exception for Public Utilities (City of Auburn)

- Other Customary Construction Related Permits (City of Auburn)
- Final Subdivision Approval (City of Auburn)
- Critical Areas Review (King County)
- Floodplain/Shoreline Permit (King County)
- Engineering (King County)
- Forest Practices Permit (Department of Natural Resources)
- Hydraulic Project Approval (WA Dept of Fish and Wildlife (WDFW))

B. ENVIRONMENTAL ELEMENTS:

1. **Earth:** Concur with checklist and Critical Areas Report. The majority of the project site is undulating with a moderate to steep slope generally descending to the west. The overall average slope gradient is approximately 30%, with isolated areas in excess of 40%, with a maximum local gradient of approximately 45% located in an isolated area approximately 880 square feet in area. It is anticipated that the maximum local gradient would be approximately 45%. A slope reconnaissance of the project site did not show any signs of recent large scale erosion or slope instability and the overall slopes were characterized as stable from a global stability standpoint.

Pursuant to the USDA Natural Resources Conservation Service (NRCS) Web Soil Survey, the project site is underlain with Alderwood gravelly sandy loam (AgC 6-15% slopes), a moderately well drained soils formed in glacial drift. This differs from the soil type identified in the checklist (Qgt-glacial till), but is consistent with the geotechnical report addendum dated March 31, 2014. The subsurface exploration conducted for the site was conducted in February and June 2013, by Earth Solutions NW, LLC. (ESNW), and was incorporated into the Geotechnical Engineering Report prepared by Earth Solution NW, LLC, dated June 26, 2013. The subsurface explorations conducted by ESNW utilized 17 test pits for soil assessment, characterization and classification. No fill was encountered at the test pit locations, and top soil was observed at depths of 4 to 12 inches; however fill may be present on those portions of the site currently developed. Groundwater seepage was encountered at depths of 3 to 10 feet, indicating perched groundwater. Seasonal groundwater rates and elevations fluctuate depending upon the time of year excavations take place and groundwater elevations and flow rates are typically higher during the wetter, winter months.

Given the site's terrain and soil characteristics, the same report did not anticipate that the project and associated construction activity will increase the potential for soil instability provided the recommendations of the report are followed. The Geotechnical Engineering Report is to be updated and its updated recommendations are to be implemented in conjunction with Facilities Extension (FAC), Grading, Storm, and Building Permit approvals from the City.

Additionally, the Director's Interpretation regarding the alteration of Class IV slopes found that if such slopes met all criteria items 1 through 9, the alteration of isolated Class IV slopes is permitted. Additionally, it is anticipated that the Applicant will submit for an Administrative Variance per ACC 16.10.160, allowing minor variances up to and including 10% of the requirement of the slope calculation methodology concurrently with a future grading permit.

The grading will require imported material, with approximately 110,000 cubic yards of cut and 210,000 cubic yards of fill (+/- 321,000 cubic yards total). For any imported soils, the Applicant shall provide source information for permitting, such as a fill source statement.

To minimize potential erosion impacts a temporary erosion and sedimentation control plan (TESCP) and erosion control measures consistent with Best Management Practices (BMPs) per

the 2009 City of Auburn Surface Water Management Manual (SWMM) are to be implemented in conjunction with FAC, Grading, Storm, and Building Permit approvals from the City. Additionally, construction impact mitigation shall include consideration of proposed construction means and methods and may require seasonal construction limits.

2. **Air:** Short term impacts on air quality would consist of increased exhaust and dust particle emissions during construction and paving activity associated with the project. Longer term impacts on air quality would be due to elements typical of a residential neighborhood such as vehicle emissions, personal lawn care equipment, fireplaces, etc.

Construction and paving activity associated with the project will contribute to a short term increase in local suspended particulate levels. To minimize short term impacts to air quality, dust control measures are proposed and are to be implemented per the 2009 City of Auburn Engineering Construction Standards in conjunction with FAC, Grading, Storm, and Building Permit approvals from the City.

Automobile and fireplace emission standards are regulated by the State of Washington. The site is located in a "No Burn Zone" by the Puget Sound Air Pollution Control Agency; as such, no land clearing or yard debris fires are permitted on-site or within the surrounding neighborhood.

3. **Water:**

- A. **Surface:** Concur with Critical Areas Report. The Off-Site Wetland Assessment, prepare by Wetland Resources, Inc., dated February 19, 2014 indicates there are "no wetlands, streams, or other critical areas on-site" which is partially incorrect as there are isolated Class IV slopes on the project site. However, this report is focused on hydrologic systems not slopes and therefore its findings pertaining to these systems are still valid.

The report identifies both a wetland and a stream located off-site to the south of the project site. Approximately 8.4 acres, located in the easternmost portion of the project site (referred to as Basin E3/E1A) currently drains towards the off-site wetland/stream complex to the south. There are currently no surface water inputs to the off-site wetland other than sheet flows. The report states that upon completion of the project, all runoff and stormwater generated on-site will be diverted to a stormwater detention pond located in the southwest corner of the project site. The result of the diversion will create a slight decrease in area within the contributing basin (168.8 acres decreased to 160.39 acres). However, based on the large quantity of water that will continue to move through the basin, and therefore into the wetland/stream complex, the hydrology within the system will be maintained. The 5% reduction of the contributing basin is not expected to negatively impact the wetland/stream complex, nor is it expected to cause significant adverse impacts downstream.

Staff has reviewed the revised Wetland and Stream Report and the Preliminary Stormwater Site Plan to assess the potential impacts to the functions and values provided by the off-site wetland and stream area. Given the private property and conveyance capacity issues to the highly manipulated system downstream of the site the concept of removing the approximate 8.4 acre basin (Basin E3/E1A), and routing the on-site hydrology to the proposed detention facility is acceptable.

The proposed on-site detention/wetpond facility will treat stormwater for sediment and petroleum removal before being released via the discharge pipe which is proposed to be constructed and discharge into Mill Creek, which is the current natural discharge location. The pipe will be laid above ground to minimize disturbance to the existing vegetation and slope. The pipe is proposed to be anchored with rods at appropriate intervals, and an

energy dissipater structure at the base of the slope and discharge into the buffer associated with Mill Creek.

An addendum to the Preliminary Stormwater Report was provided by Core Design detailing the reasoning for selecting this as the discharge location. There were a total of 7 options analyzed and considered for the on-site runoff discharge location. Upon review of the addendum, staff concurs with the proposed conveyance system however, further analysis and review will be required as part of a final mitigation plan addressing construction details of mitigating on-site stormwater runoff and conveyance impacts is required prior to issuance of FAC, Grading, Storm, and Building Permit approvals from the City. Additionally, the same final mitigation plan shall address mitigation of the potential impacts to the Class IV slope that the stormwater discharge pipe will be constructed on above Mill Creek.

- B. Groundwater:** Concur with checklist. The project site is in Groundwater Protection Zone 4. Best management practices (BMPs) for water resources protection are to be implemented in conjunction with FAC, Grading, Storm, and Building Permit approvals from the City, per Auburn City Code (ACC) Section 16.10.120(E)(2) and per the following from the City SWMM, at minimum:

- BMP C101 – Preserving Natural Vegetation
- BMP C102 – Buffer Zone
- BMP C103 – High Visibility Plastic or Metal Fence
- BMP C120 – Temporary and Permanent Seeding
- BMP C153 – Material Storage, Delivery, and Containment

- C. Runoff/Stormwater:** Concur with checklist and conceptual utility, grading, and transportation plan. Prior to the issuance of FAC's, the stormwater run-off will be reviewed for consistency with the 2009 City of Auburn Surface Water Management Manual (SWMM). All stormwater runoff will be directed to a proposed on-site stormwater detention/wetpond facility located on the southwestern corner of the project site. The design of the stormwater system is to be consistent with the SWMM in conjunction with Preliminary Plat, FAC, Grading, Storm, and Building Permit approvals from the City.

Best Management Practices (BMPs) per the SWMM are to be implemented in conjunction with FAC, Grading, Storm, and Building Permit approvals from the City.

- 4. Plants:** Concur with checklist. No threatened or endangered plant species are known to be on or near the site.
- 5. Animals:** Concur with checklist. No threatened or endangered species are known to be on or near the site. Per the City's eGIS maps, there are no priority habitats or any other fish and wildlife habitat within proximity of the project site.
- 6. Energy and Natural Resources:** Concur with checklist. Single-family residences proposed to be constructed are subject to approval from the Washington State Department of Labor and Industries for consistency with the most recent edition of the Washington State Energy Code.
- 7. Environmental Health:** Concur with checklist.

Noise: The construction schedule for the project shall conform to the requirements as established in the ACC. FAC, Grading, Storm, Building, and other required permit approvals from the City are subject to ACC Section 8.28.010(B)(8), Noise Control for Construction Noise, which limits all construction activity-related noise to 7:00am – 7:00pm, Monday thru Friday, and

9:00am – 6:00pm, Saturday and Sunday, per ACC Section 8.28.010(B)(8), Noise Control for Construction Noise, unless construction activity outside of the aforementioned hours is approved per ACC 8.28.010(B)(8)(c). Noise generated when the project is complete will be typical of a neighborhood of single-family residences and no different in nature than the adjacent single-family residences.

- 8. Land and Shoreline Use:** Concur with checklist. The project site is currently primarily undeveloped, with 3 single-family residential structures with associated outbuildings. With the exception of the single-family residence located in the northeastern corner of the project site, all other structures will be demolished.

The property is designated as Single-Family Residential in the City's Comprehensive Plan and currently zoned R5 Residential. All adjacent uses are single-family residential or undeveloped land. A request to rezone from R5, Residential to R7, Residential, allowing for a maximum increase of 2 dwelling units per acre has been submitted for the parcels associated with the project site. The rezone from R5 to R7 is consistent with the goals, objectives, and policies of the Comprehensive Plan and is supported by staff.

It is the intent of both the R5 and R7 zones is *"to create a living environment of optimum standards for single-family dwellings."*

The proposed project would provide 154 single-family residences that would house approximately 385 people in total. The proposed land use is consistent with the City's Comprehensive Plan and zoning designations. No persons would be displaced as the current residents are proponents of the project.

- 9. Housing:** The project site is currently undeveloped and will provide 153 new middle-income single-family units. Two of the 3 existing housing units will be eliminated as part of this proposal.
- 10. Aesthetics:** Concur with checklist. Proposed structures on the site will not exceed 35 feet in height which is in conformance with the maximum height for the R7 zone per ACC18.07.030(I). No views would be affected by this project.
- 11. Light and Glare:** Concur with checklist.
- 12. Recreation:** Concur with checklist. The project will provide open space tracts for residents that will be managed by the future HOA. Additionally, the project is subject to applicable City of Auburn Park Impact fees.
- 13. Historic and Cultural Preservation:** Concur with checklist. There are no known places or objects listed on or proposed for national, state, or local preservation registers. Staff conducted a review of the project site utilizing the WISAARD (Washington Information System for Architectural and Archaeological Records Data) on the DAHP website and no historic and/or cultural elements were identified. If any historically significant site, building, district, structure, or object discovered during construction activity, work should be halted, the area secured, and the Tribes and DAHP immediately consulted.
- 14. Transportation:** Concur with checklist. The 154 proposed single-family residences will be served by proposed public right-of-way within the plat and would connect to South 312st Street to the north, 46th Place South to the west, and 51st Avenue South to the west.

In anticipation of the increase in transportation needs from 153 new single-family residences, the public right-of-way within the plat will be constructed to the specifications of the City of Auburn

Engineering Design Standards in conjunction with Preliminary Plat and FAC Permit approvals from the City, unless a deviation is granted per City of Auburn Engineering Design Standards Section 1.03.

To mitigate for increases in vehicular trips generated by the project, a traffic impact fee per ACC 19.04 will be assessed in conjunction with Building Permit issuance.

15. Public Services: Concur with checklist. To mitigate for increased demand for public services, fire and parks impact fees per ACC Title 19 are to be assessed in conjunction with Building Permit issuance.

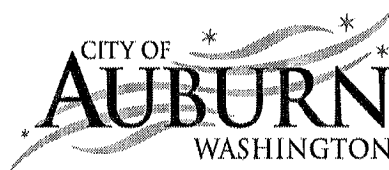
16. Utilities: Concur with checklist.

C. CONCLUSIONS:

Based on the SEPA Checklist, its supplemental documents and reports, and the requirements of the Auburn City Code and Design Standards, the proposal can be found to not have a probable significant adverse impact on the environment.

The City reserves the right to review any future revision or alterations to the site or to the proposal in order to determine the environmental significance or non-significance of the project at that point in time.

Prepared by: David L. Jones, AICP, Senior Planner

**AFFIDAVIT OF MAILING OF APPLICATION NOTICE**

Application Number: PLT13-0006 / REZ13-0003 / SEP13-0030

Applicant: Nick Abdelnour
Polygon Northwest Company
11624 SE 5th Street, Suite 200
Bellevue, WA 98005

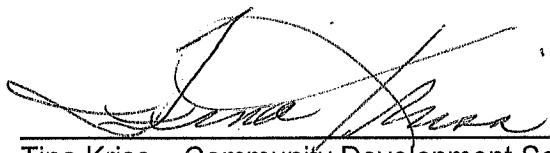
Agent: Same as Applicant

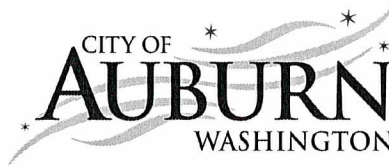
Location: The project site is located on the south side of S 321st ST, between 46th Place S and 51st AVE S, within the SE ¼ of Section 15-21-04. King County Assessor Parcel No.s 1521049017, 1521049157, 1521049001, 1521049019, 1521049020, 9262800194, 9262800201, 9262800203, 9262800271

Closing Date for Public Comments: June 17, 2014

I certify that on June 3, 2014, I did send a Notice of Application for the above referenced applications, as required by Auburn City Code 14.07, to all property owners located within 350 feet of the affected site. Said Notice was mailed pre-paid stamped through the United States Postal Service at least 14 days prior to the closing date for public comments noted above.

I declare under penalty of perjury of the laws of the State of Washington that the foregoing is true and correct.


Tina Kriss – Community Development Secretary



AFFIDAVIT OF POSTING OF LEGAL NOTICE

Application Number: PLT13-0006/SEP13-0030/REZ13-0003

Applicant: Nick Abdelnour, PNW Home Builder North, LLC

Location: The project site is located on the south side of South 321st Street, between 46th Place South and 51st Avenue South, within the SE ¼ of Section 15-21-04.

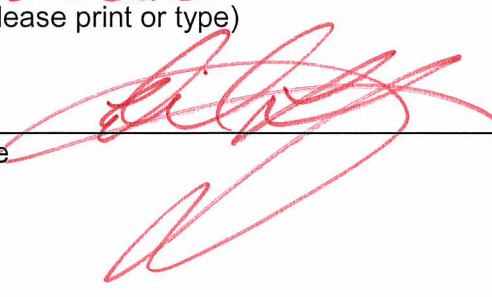
Public Hearing Date: June 17, 2014

I certify that on June 2, 2014, I did erect a land use posting board at the location above, which included a Notice of Public Hearing and SEPA Determination of Non-Significance for the above referenced application, as required by Auburn City Code 1.27 and 14.07.030. The board was erected at least 15 days prior to the date of the open record predecision hearing noted above.

I declare under penalty of perjury of the laws of the State of Washington that the foregoing is true and correct.

David L. Jones
Name (please print or type)

6-2-14
Date

Signature 

The Seattle Times

City of Auburn, Finance Dept
City Clerk
25 W Main St

Auburn, WA 98001

Re: Advertiser Account # 107302
Ad #: 439922

Agency Account #: 0
Agency Name:

Affidavit of Publication

STATE OF WASHINGTON
Counties of King and Snohomish

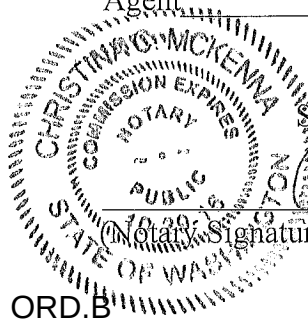
The undersigned, on oath states that he/she is an authorized representative of The Seattle Times Company, publisher of The Seattle Times of general circulation published daily in King and Snohomish Counties, State of Washington. The Seattle Times has been approved as a legal newspaper by others of the Superior Court of King and Snohomish Counties.

The notice, in the exact form annexed, was published in the regular and entire issue of said paper or papers and distributed to its subscribers during all of the said period.

Newspaper and Publication Date(s)	
Seattle Times	06/03/14

Agent **Craig Pappas**

Signature Craig Pappas



Subscribed and sworn to before me on

June 4, 2014
DATE

Christina C. McKenna
(Notary Signature)

Christina C. McKenna

Notary Public in and for the State of Washington, residing at Seattle

The Seattle Times

Re: Advertiser Account # 107302

Ad #: 439922

Agency Account #: 0

Agency Name:

AD TEXT

NOTICE OF PUBLIC HEARING AND DETERMINATION OF NON-SIGNIFICANCE

PNW Home Builder North, LLC
Auburn Assemblage Preliminary Plat
REZ13-0003 / PLT13-0004 / SEP13-0018

Project: Rezone and subdivide nine (9) parcels representing approximately 34.35 acres from R5, Residential - 5 Dwelling Units per Acre (du/ac) to R7, Residential - 7 du/ac for the purpose of a 154-lot preliminary plat subdivision.

Applicant/Agent: Nick Abdelnour
PNW Home Builder North, LLC
11624 SE 5th Street, Suite 200
Bellevue, WA 98005

File No: REZ13-0003/PLT13-0004/
SEP13-0018

Location: The project site is located on the south side of South 321st Street, between 46th Place South and 51st Avenue South, within the SE ¼ of Section 15-21-04.

Lead Agency: City of Auburn

The lead agency for this proposal has determined that it does not have probable significant adverse impact on the environment. An environmental impact statement (EIS) is not required under RCW 43.21C.030(2)(c). This decision was made after review of a completed environmental checklist and other information on file with the lead agency. This information is available to the public on request.

This DNS is issued under 197-11-340(2); the lead agency will not act on this proposal for 14 days from the date issued below. Comments must be submitted by 5:00 p.m. on June 17, 2014.

For comments or questions related to this application, you may contact David Jones, Senior Planner, Department of Planning & Development at (253) 804-5031.

Any person aggrieved of the City's determination may file an appeal with the Auburn City Clerk within 14 days of the close of the comment period, or by 5:00 p.m. on July 1, 2014.

Responsible Official: Jeff Tate

Position/Title: Assistant Director, Community Development Department

Published on June 3, 2014.

NOTICE OF PUBLIC HEARING AND DETERMINATION OF NON-SIGNIFICANCE
Auburn Assemblage Preliminary Plat
REZ13-0003 / PLT13-0006 / SEP13-0030

The City of Auburn is issuing a Notice of Public Hearing and Determination of Non-significance (DNS) for the project described below. This notice is being sent as this application may be of interest to you. The permit applications and listed studies may be reviewed at the Auburn Planning and Development Department at 1 East Main Street, 2nd Floor, Customer Service Center, Auburn, WA 98001.

Public Hearing: **June 18 at 5:30 p.m.**
COUNCIL CHAMBERS, AUBURN CITY HALL
25 West Main Street, Auburn, WA 98001

Proposal: To rezone and subdivide an approximately 34.35-acre site into 154 single-family residential lots and 20 tracts, and associated stormwater facilities, public streets, utilities, landscaping, and approximately 321,000 cubic yards of cut and fill.

Location: The project site is located on the south side of S 321st ST, between 46th Place S and 51st AVE S, within the SE ¼ of Section 15-21-04. King County Assessor Parcel No's: 1521049017, 1521049157, 1521049001, 1521049019, 1521049020, 9262800194, 9262800201, 9262800203, 9262800271.

File No. REZ13-0003 / PLT13-0006 / SEP13-0030

Applicant/ Nick Abdelnour
Agent: PNW Home Builder North, LLC
11624 SE 5th Street, Suite 200
Bellevue, WA 98005

Studies/Plans Submitted With Application:

- Traffic Impact Analysis, prepared by Traffic Engineers, NW, dated September 19, 2013.
- Field Reconnaissance for the Auburn Assemblage, prepared by Wetland Resources Inc. dated May 21, 2013.
- Phase I Environmental Site Assessment, prepared by Earth Solutions NW, LLC, dated June 26, 2013, and revised March 31, 2014.
- Geotechnical Engineering Study, prepared by Earth Solutions NW, LLC, dated June 26, 2013, 2014, and revised March 31, 2014 and Addendum dated March 4, 2014.
- Preliminary plat plan, preliminary grading and clearing plan, preliminary utility plan, preliminary site details, preliminary road and utility profiles, preliminary storm outfall profiles, preliminary sanitary sewer profiles, preliminary stormwater pond sections, preliminary site sections, and sight distance exhibits prepared by Core Design, Inc, received January 23, 2014; and final plan set revisions received April 7, 2014.
- Composite Landscape Plan, prepared by Core Design, Inc. dated September 2013, revised April 4, 2014.
- Preliminary Stormwater Report, prepared by Core Design, Inc, dated September 2013, revised March 31, 2014, and Addendums received May 27, 2014.

- Director's Environmental Code Interpretation related to Class IV Geologic Hazard areas, dated May 9, 2014.
- Wetland and Stream Report and Mitigation Plan, prepared by Wetland Resources, Inc., dated January 19, 2014; revised on March 7, 2014.

Additional Studies/Plans to be Provided:

- Final Mitigation Plan

Other Permits, Plans, and Approvals Needed:

- Critical Areas Review, Final Mitigation Plan, Facilities Extension Agreement, Storm Permit, Water Permit, Sewer Permit (City of Auburn)
- Deviation to Traffic Design Standards (City of Auburn)
- Administrative Variance per ACC 16.10.160 (City of Auburn)
- Building Permit (City of Auburn)
- Special Exception for Public Utilities (City of Auburn)
- Other Customary Construction Related Permits (City of Auburn)
- Final Subdivision Approval (City of Auburn)
- Critical Areas Review (King County)
- Floodplain/Shoreline Permit (King County)
- Engineering (King County)
- Forest Practices Permit (Department of Natural Resources)
- Hydraulic Project Approval (WA Dept of Fish and Wildlife (WDFW))

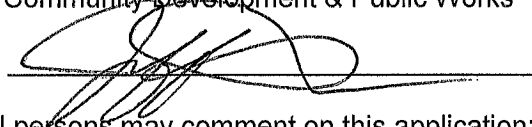
Statement of Consistency and List of Applicable Development Regulations: This proposal is subject to and shall be consistent with the Auburn City Code, Comprehensive Plan, and Public Works Design and Construction Standards.

Lead Agency: City of Auburn

The lead agency for this proposal has determined that it does not have probable significant adverse impact on the environment. An environmental impact statement (EIS) is not required under RCW 43.21C.030(2)(c). This decision was made after review of a completed environmental checklist and other information on file with the lead agency. This information is available to the public on request. Any person aggrieved of the City's determination may file an appeal with the Auburn City Clerk within 14 days of the close of the comment period, or by 5:00 p.m. on **July 1, 2014**.

Responsible Official: Jeff Tate
Position/Title: Assistant Director, Community Development & Public Works

Date Issued: **June 3, 2014**

Signature: 

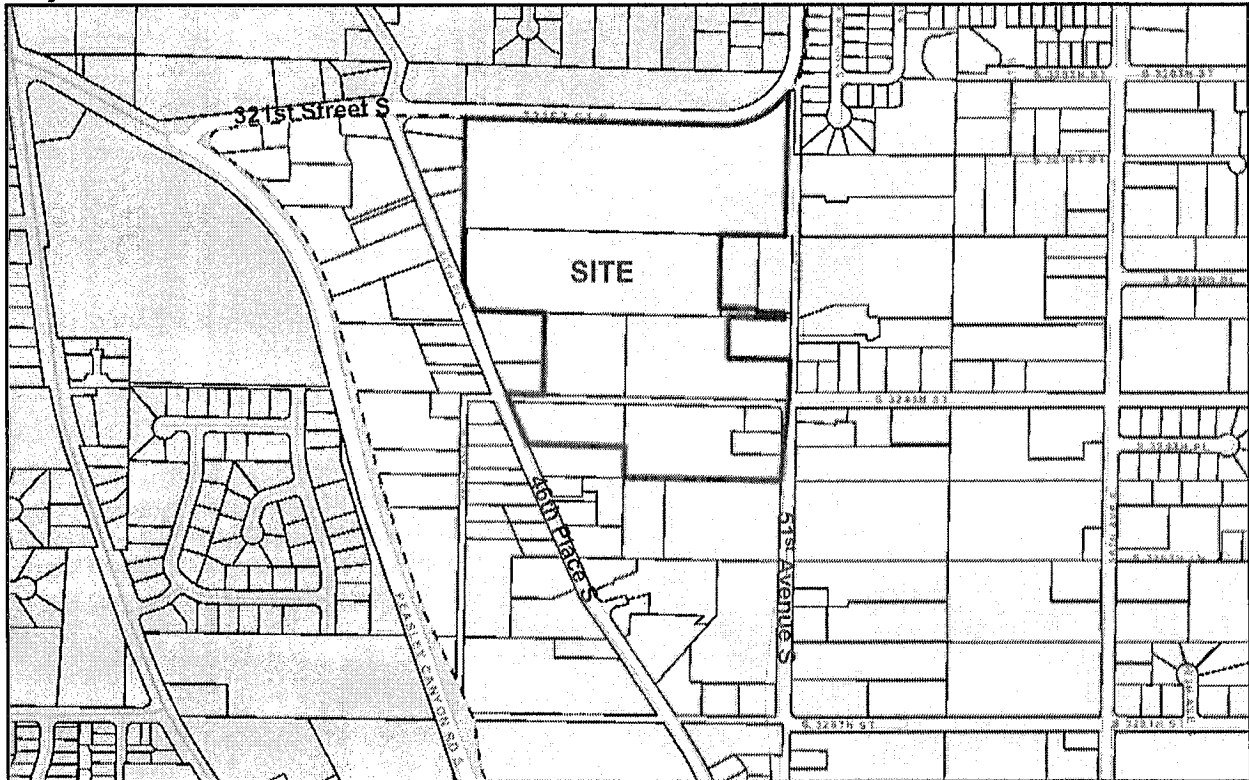
This DNS is issued under WAC 197-11-340(2). All persons may comment on this application; the lead agency will not act on this proposal for 14 days from the date issued below. Comments must be in writing and submitted by 5:00pm on **June 17, 2014** to the mailing address of 25 West Main Street, Auburn, WA, 98001-4998. Any person wishing to become a party of record, shall include in their comments that they wish to receive notice of and participate in any hearings, if relevant, and request a copy of decisions once made.

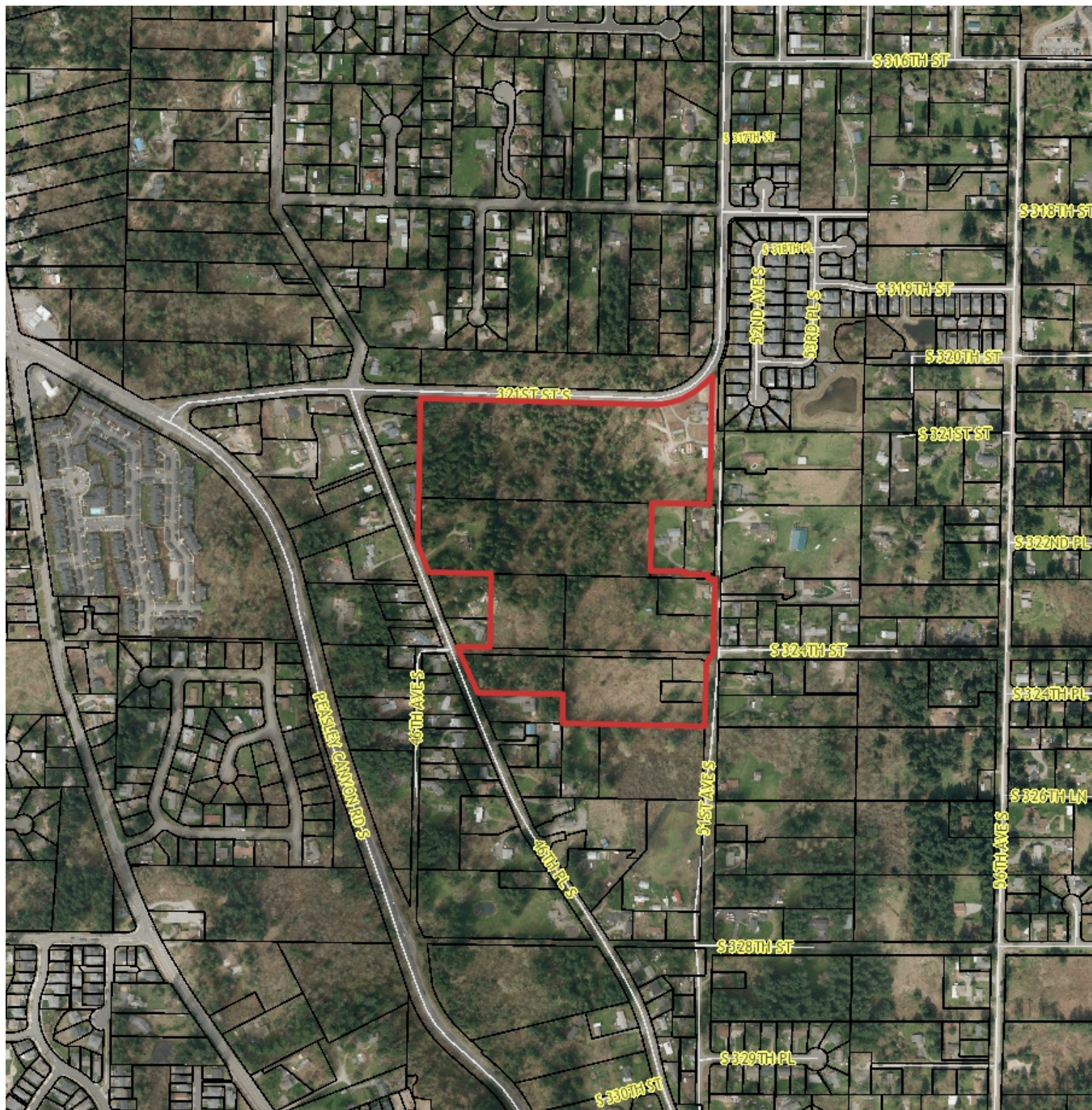
For comments or questions related to this application, you may contact David L. Jones, AICP, Senior Planner, Department of Planning & Development at (253) 804-5031 or dljones@auburnwa.gov.

Note: This determination does not constitute approval of the proposal. Approval of the proposal can only be made by the legislative or administrative body vested with that authority. The proposal will be required to meet all applicable regulations.

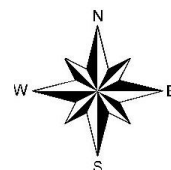
Citizens with speech, sight or hearing disabilities wishing to review documents pertaining to this hearing should contact the City of Auburn within 10 calendar days prior to the meeting as to the type of service or equipment needed. Each request will be considered individually according to the type of request, the availability of resources, and the financial ability of the City to provide the requested services or equipment.

Project Site





Information shown is for general reference purposes only and does not necessarily represent exact geographic or cartographic data as mapped. The City of Auburn makes no warranty as to its accuracy.



BEFORE THE HEARING EXAMINER FOR THE CITY OF AUBURN

Phil Olbrechts, Hearing Examiner

RE: Auburn Assemblage Rezone

REZ13-0003

**FINDINGS OF FACT, CONCLUSIONS
OF LAW AND RECOMMENDATION
AFTER RECOMMENDATION.****INTRODUCTION**

The applicant has requested a rezone of 34.35 acres from R5 to R7 for an area bordering the Auburn City limits along S. 321st St. between 46th Pl. S and 51st Ave S. After extensive reconsideration debate between City staff and the Hearing Examiner, the initial recommendation for denial is changed to a recommendation for approval.

Denial of the rezone was initially recommended on the fairly common-sense principle that if the zoning designation for an area is currently consistent with your comprehensive plan land use map, you shouldn't be approving a rezone to a greater residential density if the surrounding road network currently fails or will fail to meet adopted level of service ("LOS") standards. In that scenario, zoning districts authorizing the lower end of allowed density ranges (i.e. R5 as opposed to R7) should be the preferred policy choice in order to minimize increases to congestion caused by new development.

For this proposal, the initial evidence presented on transportation impacts was that the proposal would significantly increase delays at one intersection projected to operate at LOS F in 2016 with or without the Auburn Assemblage Preliminary Plat¹ and would

¹ The Auburn Assemblage Preliminary Plat is a 154 lot preliminary plat application, PLT13-0006, submitted by the applicant in a consolidated application with the subject rezone request.

1 reduce the LOS of another intersection from LOS D to LOS E. Both intersections are
2 located in King County adjacent to the Auburn City Limits. However, the back-ups of
3 both intersections would both extend into the City of Auburn. King County's adopted
4 LOS for the intersections is E and that Auburn's intersection LOS is D. Staff required the
5 applicant to dedicate some right of way to mitigate impacts to the LOS F intersection, but
6 the record provided no assurance that necessary improvements to the dedicated right of
7 way would be made within the foreseeable future. For these reasons, denial of the
8 proposed rezone was recommended.

9 Additional information presented subsequent to denial now justifies approval of the
10 rezone. In their reconsideration request, staff submitted the City's 6 year transportation
11 improvement plan ("TIP") showing that the City would be improving the right of way
12 dedicated by the applicant for the LOS F intersection within 6 years². The City also
13 disclosed that the applicant would now be making improvements to the other intersection
14 that would enable it to operate at LOS D. With these improvements, the proposal will now
15 be consistent with all applicable LOS standards. Given the lack of any adverse impacts
16 associated with the proposal, approval is recommended for the proposed rezone.

17 **TESTIMONY**

18 Note: The hearing on the rezone was consolidated with the hearing on the preliminary plat
19 (PLT13-0006). The testimony summarized below applies to both the rezone and
20 preliminary plat applications.

21 **Staff Testimony**

22 David Jones stated that there was a SEPA determination of non-significance issued on June
23 3, 2014 for the rezone application. The City received comment letters regarding the
24 determination. Staff responded to letters of concern from neighbors in the area. Staff also
25 received a letter from the Muckleshoot Indian Tribe Fisheries Division in regard to the
DNS (Exhibit 9). Federal Way's Public Works Division also submitted a letter (Exhibit
10). The appeal period for the SEPA ends on July 1, 2014. There are nine parcels
associated with the project. The site is underdeveloped with three-single family structures
on the 34.35 acres. All structures on site will be demolished with the exception of one
single-family residence. The zoning request is to change the classification from R-5 to R-
7. R-7 allows seven units per acre. The rezone would increase the project yield by a total

² The Examiner can take judicial notice of legislative enactments and the TIP was
adopted by resolution. The TIP was adopted in June 16, 2014, a couple days before
the hearing on the proposed rezone. The applicant's subsequent offer to improve the
LOS F intersection could arguably be considered new information submitted after the
close of the hearing, but it is also something that could have been required as a
condition of approval. Further, the proposed improvements were contained within
the City's reconsideration request, which was distributed to the parties of record for
comment prior to the issuance of this final decision.

of nineteen lots. The overall dwelling units per acre would be 5.69. The proposal will not have any significant environmental impacts provided the rezone is consistent with all applicable city standards. A combined notice of public hearing and DNS was issued on June 2, 2014. The rezone is consistent with the general purposes of the Comprehensive Plan. The proposal meets goal 13 of the Plan regarding city utilities. The rezone must be initiated by someone other than the City in order for the Hearing Examiner to consider the request. The project was initiated by Polygon Northwest Company via its agent Nick Abdelnour. Staff recommends approval of the rezone.

Under questioning by the Hearing Examiner, Mr. Jones testified that the rezone helps the City meet the requirements of the Growth Management Act. The rezone does not just provide more density for the applicant. The City is not currently having trouble meeting its growth projections; however, during the economic downturn, elements of growth stagnated. The specific part of the Comprehensive Plan this project meets is land use 17. The dwelling units proposed under the rezone (5.69) meet the land use standard of 4 to 7 dwelling units per acre. The current designation is 4 to 5 dwelling units per acre which also meets the Comprehensive Plan designation.

Applicant Testimony

Nick Abdelnour, Polygon Northwest Company, stated the project is at Auburn city limits and has great access to I-5. It is on the border of unincorporated King County, and King County operates S 321st Street. The City of Federal Way lies to the west of the site. When the economic downturn occurred, the previous developer abandoned the project. There are nine legal parcels and five different landowners associated with the project. The applicants are proposing 153 new single-family homes. One of the property owners, the Hubner family, will continue to reside at the northwest corner of the property (labeled lot 17). There are no wetlands or streams associated with the project. To the west of the project is 46th Place S, and to the east of the project is 51st Avenue S. On February 27, 2013, Polygon held a pre-application meeting. On September 10, 2013, Polygon held a neighborhood meeting. Polygon formally submitted a preliminary plat in October, 2013. The City issued a letter of completion for the plat on February 10, 2014. A SEPA determination of non-significance was subsequently issued. The applicant plans on beginning the project summer 2014. Mr. Abdelnour stated that they worked closely with the City on concerns involved with storm water, transportation road alignments, and dedications of right of ways. When the Hearing Examiner asked, Mr. Abdelnour stated that the proposal meets City standards for fire safety.

Duana Kolouskova, attorney for the applicant, stated that the rezone is supported by a few different physical opportunities for the property. The development of the site will bring sewer to the area. Currently, there is no sewer to the area, and this will bring an opportunity to bring that utility. The properties nearby are zoned R-5, but in the immediate vicinity just beyond that are fairly major developments that are developed at urban density. This rezone is consistent with the Comprehensive Plan, and it is consistent with the growth management goals of bringing urban style density to areas where urban style facilities can be provided. In response to a question from the Hearing Examiner, Ms. Kolouskova stated

1 that the rezone is in the scope of density that is already contemplated by a comprehensive
2 plan, and the Comprehensive Plan is designed with the long range vision of allowing this
type of flexibility for a rezone as things like sewer become available to certain areas.

3 Public Comments

4 Steve Vinton stated that the houses around this development are 5 acres lot plus, and this is
5 a rural area. There are deer, eagles, hawks, coyotes on this property. His complaint is that
6 Polygon has tried to label the area a city, and it is not. It is an undeveloped area. He is
7 opposed to making this an R-7 zone, because the intent is to put more homes on smaller
8 lots in an area that is farmland. His family has lived in the area for 31 years, and the
9 location of his lot to the West of the development means that he is the most affected by the
10 development. He knows that he is not able to stop the development, but he wants to work
11 with the City of Auburn to deal with several issues. He stated that their map does not even
12 show the road that they want to put in, but it turns out the road comes within 15 to 17 feet
13 of his bedroom window because they want to straighten out the road on the grid despite the
fact that there is nothing on the other side of the road. He has already proposed to Polygon
that they buy three lots out, make their development bigger, and not have to move the road.
There is nothing wrong with the road that already exists. If they go through with their plan
to move the road closer to his property, the City will have to build a sound barrier to
protect his property. Mr. Vinton questioned why they wanted to put in a new road that does
not need to be put in, noting that the road there already has served everyone perfectly for
years.

14 Mr. Vinton submitted a bullet-point letter with photographs of his property to the record,
15 and they were admitted to the record as Exhibit 18. Mr. Vinton stated that his property is
16 360 feet long, and the road that is proposed is going to run that whole distance. When he
17 built his house, he put it at the back of the property, and now this road is going to be so
18 close to his house that real estate companies have told him that this development is going
19 to take \$100,000 off what the house is worth. He stated that the road that is there currently
20 gets backed up to the point that cars sit on the road for up to three hours, and they want not
21 only to move the road closer to his home but also to add the cars from 153 houses to that
22 congestion. The City has not even required that a stoplight be put in. They took a traffic
survey in the middle of the summer when they should have taken it in the winter, or when
it was raining. Also, the road that the applicant is proposing will be four feet higher than
his property. He is not certain whether Polygon or the City is responsible for the road, but if
a new road is going to be built at level with his bedroom window right next to his property,
a fence and sound barrier need to be built. Nobody has said a word to Mr. Vinton about
compensation for what they are going to do.

23 Philip Miller stated that 46th Place as it is cannot handle one more car. He works nights
24 because he does not want to deal with the traffic. The road gets gridlocked to the point that
25 you cannot get off, and this is without the cars from the development that is proposed. He
asked whether any traffic studies were done in late November or December when traffic on
the road is the worst. He questioned who will be held responsible for it when the gridlock
on the road gets worse. He stated that R-5 is unreasonable, and R-7 is out of the question.

1 Already, any inclement weather traps everyone. Also, Mr. Miller stated that he has shallow
2 wells and an open spring on his property, and he wants to know whether these water
systems will be affected, and who is responsible for that, if anyone.

3 Ron Coen stated that he read the rebuttal about the concerns that he brought up in a letter.
4 His concerns are with the road to the East of the property. The school bus drops his kids
5 off half a mile from their house because the bus would not be able to turn around were it to
6 go farther down the road, which narrows to the point that only one car can pass at a time.
The road already needs to be fixed, and they cannot take more congestion. The area is
rural; it is not R-7, and it is not R-5.

7 Cathi Gough stated that she lives on 46th Avenue South, and she noted that the concerns
8 that have already been expressed about the traffic are legitimate. They are not as prepared
9 as people who deal with things like this on a regular basis, including the City as well as
10 Polygon, but they are trying to understand what is happening, and they are trying to
11 respond to the proposal. She stated that 153 more houses will make the traffic absolutely
horrendous, and the City needs to think about that for a minute rather than about the tax
money that will come in because of the development.

12 Jeff Kelly stated that he lives on 46th Place South. There is no shoulder along 46th Place,
13 which means it needs to be updated if they are going to put in a development. He has tried
14 numerous times to walk along the road with his wife, and they have not been able to
15 because of the poor conditions. The children who live in the development are going to
16 have to use that road, and it will not be safe for them. If the development is increased to an
R-7, that increases the accidents that will happen. The roads need to be updated to
accommodate the traffic.

17 Steven Vinton stated that he has a letter from the City that he requested from the previous
18 mayor, who had Public Works Staff survey 46th Place, and he read from the letter. In the
19 letter, the mayor states that this is a paved road in good condition, and in his opinion the
20 road does not need to be updated. Mr. Vinton stated that the letter was wrong. The man
21 that Auburn sent to survey the road missed logs along the side of the road that have been
there for years, and Mr. Vinton stated that he has pictures that show exactly where these
logs are, that show how terrible conditions along the side of the road are. These pictures
were admitted to the record as Exhibit 19.

22 Staff Rebuttal

23 James Webb, the traffic engineer for the City, stated that 46th Place currently operates
24 poorly for several reasons. One main reason is the configuration of the intersection with
321st Street. This area was only incorporated into the City a few years ago. Before it was
25 incorporated, King County identified an improvement project that would realign 46th Place
to the East to off-set the issues that arise from the intersection. In reviewing this
application, they worked with the applicant to have the applicant dedicate a right-of-way
that would allow the road to be realigned. In regard to how the effects from realigning to

1 the road from one side of the Vinton property to the other side of the Vinton property
2 would be mitigated, Mr. Webb stated that the City will work with nearby property owners
3 to address their concerns to mitigate whatever impacts the project has. In regard to what
4 mitigation they might do for the Vinton property, Mr. Webb stated that they could build
5 retaining walls, fences, etc. Mr. Webb clarified that the applicant is not building the road.
6 The applicant is only dedicating the right-of-way necessary to build the road. The City
7 plans to build the road in the future, which means the City is going to be responsible for
8 any necessary mitigation measures.

9 Under questioning by the Hearing Examiner, Mr. Webb stated that the level of service on
10 46th Place differed along the road. Currently, the northbound lane on 46th Place is level of
11 service E during the P.M. peak hour, and, with or without the project, it is going to degrade
12 to level of service F. The realignment that will follow the project is going to improve
13 operation, and the applicant via the dedication of the right-of-way combined with traffic
14 impact fees will be used towards the construction of the realignment.

15 Mr. Vinton stated that what Mr. Webb proposes to be done is not going to impact traffic at
16 all. The root of the problem is the intersection at 321st at Peasley Canyon. The daily, major
17 accidents at that intersection are what impact the traffic in the area.

18 Mr. Webb stated that the intersection at Peasley Canyon was not under the jurisdiction of
19 the city. Mr. Webb stated in response to a comment about 51st South that currently there is
20 not going to be a reason for people in the development that is proposed to use 51st South.
21 The benefit of the changes to the roads that are proposed is going to be to provide a second
22 access to the existing neighborhood, and to provide a second access for emergency
23 vehicles.

24 In regards to the R-5 designation, Mr. Jones stated that this area was incorporated into the
25 city in 2008, and the City standard for annexed property is to designate it as R-5. That is
why the designation was established at R-5. The intent of the R-5 zone is the exact same as
the intent of the R-7 zone. This project is going to expand water as well as sewer
availability to the area. To the best of his knowledge, nearby pervious developments are on
septic. There are four projects in the area under review right now, and these projects are to
the North. This is definitely an area of development in the City.

Mr. Jones stated that the project meets the standards for the R7 zone with the exception of
one lot, identified as Lot 113, which does not meet the minimum lot width requirements.
That needs to be corrected to meet the minimum standards, and staff recommends it is as a
condition of approval. In regards to the deviations that were previously announced, they
are internal, and they will work as a measure to control traffic speeds within the
development. They are required to do public improvements, dedicate and construct
improvements along 46th Place, and dedicate and construct improvements along 51st South.
The specific deviations are detailed in number nine of the Staff findings. The multiple
transportation related modifications have been reviewed by staff, and the City recommends
approval of all modification requests. Modern sewer service will be provided by Lake
Haven Utility District. The majority of the project will drain through the storm retention

1 facility located in the South, and will be discharged into Mill Creek. That is in compliance
2 with the storm water management manual requirement for natural drainage/discharge
3 patterns to be maintained. The site has pockets of critical landslide erosion hazard areas,
4 but they are isolated; the largest one is at the center of the site at approx. 880 square feet in
5 area. Nine criteria need to be met before the alteration of isolated class four slopes are
6 permitted, and the applicant will need to show compliance with those criteria. Based upon
7 the application submitted and accompanying materials, staff recommends the Hearing
8 Examiner approve the preliminary plat with the 35 conditions as listed in the Staff Report.

9 Applicant Rebuttal

10 In response to the concern that Mr. Miller expressed about the shallow wells/the open
11 spring on his property, Mr. Abdelnour stated that Mr. Miller's needs as well as his
12 neighbors' needs would be preserved.

13 Chris Forster with 10W stated that his firm was responsible for conducting the traffic
14 impact study for the project. He concurs with the City's response to the traffic concerns
15 from the neighborhood, and he wanted to add that the traffic estimates were based on
16 traffic counts that were done in March, 2013 on a day when school was in session. Mr.
17 Forster stated that the City of Federal Way has requested proportionate share payments for
18 two TIP projects, and he added that they have no information that shows that the areas for
19 those projects are failing.

20 Mr. Webb stated that when they spoke to traffic analysis in early 2013, they identified the
21 projects that they were aware of that time that would add traffic to the study area, and they
22 were accounted for in the analysis.

23 EXHIBITS

24 Note: The rezone hearing was consolidated with the associated preliminary plat
25 hearing (PLT13-0006), but the exhibits were segregated into rezone and preliminary
26 plat exhibits in order to retain the numbering assigned to each in the staff reports.

27 Rezone Exhibits:

28 Exhibits 1-8 identified in the Exhibit List of the rezone staff report were admitted into
29 the record during the hearing. The following exhibits were also admitted during the
30 hearing:

31 Exhibit 9 Comment letter from Muckleshoot Indian Tribe Fisheries Division dated
32 6/17/14

33 Exhibit 10 Comment letter from Federal Way Public Works Division dated 6/17/14

34 Exhibit 11-18 Ex. 9-16 listed in the exhibit list of the preliminary plat staff report, along
35 with City response's to each comment letter

Exhibit 19 Letter from Mr. Steve Vinton with two photographs of the Vinton property
Exhibit 20 Pictures that show logs on the side of the road on 46th Place
Exhibit 21 July 22, 2014 City of Auburn Request for Reconsideration
Exhibit 22 July 24, 2014 Order on Reconsideration
Exhibit 23 August 7, 2014 City of Auburn Response to Order on Reconsideration
Exhibit 24 August 3, 2014 email from Harlan Ward
Exhibit 25 August 14 [sic], 2014 letter from Coehn
Exhibit 26 August 4, 2014 email from Paul Riffe

Preliminary Plat Exhibits:

Exhibits 1-16 identified in the Exhibit List of the preliminary plat staff report were admitted into the record during the hearing. The following exhibits were also admitted during the hearing:

Exhibit 17 Letter from Cohen
Exhibit 18 Steve and Barbara Vinton undated letter with two pages of photographs attached.
Exhibit 19 Vinton citizen complaint.
Exhibit 20 July 1, 2014 email from David Jones to Examiner regarding mitigation agreement with Federal Way.

FINDINGS OF FACT

Procedural:

1. Applicant. The applicant is PNW Home Builder North, LLC.
2. Hearing. A public hearing was held on the proposed rezone on June 18, 2014 at 5:30 p.m. at the City Council chambers at Auburn City Hall. The hearing was left open through June 30, 2014 because the appeal period for the SEPA DNS did not end until that date. Staff forwarded a SEPA mitigation agreement with the City of Federal Way (Ex. 20) to the examiner on July 1, 2014. The City requested reconsideration by document dated July 22, 2014. An Order on Reconsideration was issued on July 24, 2014, which contained numerous questions for City staff. The Order (along with the questions) was distributed to all parties of record. A response from City staff and three members of the public was forwarded to the Examiner on August 7, 2014.

Substantive:

3. Site/Proposal Description. The applicant has requested a rezone of 34.35 acres from R5 to R7. The rezone area is composed of nine parcels and is located on the south side of 321st Street South, between 46th Place South and 51st Avenue South.

4. Characteristics of the Area. The rezone area adjoins vacant land to the north and R5 zoned property developed with single-family homes in all other directions. According to the testimony of Mr. Vinton, the surrounding area is still rural in character.

5. Adverse Impacts. No significant adverse impacts are anticipated from the proposal. The primary issue of concern is traffic. The proposal would increase traffic in an area that suffers from congestion, but improvements proposed by and required of the applicant will assure that traffic levels remain within applicable King County and City of Auburn LOS standards.

As background on traffic, the staff report notes that the rezone would enable the applicant to increase the number of lots of its proposed preliminary plat from 135 lots to 154 lots. Through the requested rezone, the applicant seeks to increase density by 14%. Given strong neighborhood concern over existing traffic congestion, any significant increases in traffic should be carefully scrutinized.

Without any intersection improvements, the preliminary plat enabled by the proposed rezone would significantly add to the delays of an intersection that will fail to meet applicable King County LOS standards, which is adopted at LOS E. However, improvements will be made such that no significant increases in intersection delay will be created by the proposal. As shown in the traffic study for the proposed preliminary plat, plat Ex. 13, the northbound leg of the 46th Ave S/S 321st Ave intersection operated at LOS E in 2013. This intersection is in King County and the northbound leg is located in the City of Auburn. In 2016 the leg is anticipated to operate at LOS F with a 50.2 section delay without the proposed Auburn Assemblage preliminary plat and a 71 second delay with the proposed preliminary plat.

The applicant will be dedicating right of way to relocate³ the 46th Ave S/S 321st Ave intersection and thereby improve LOS. As noted in the City's Reconsideration Request, the City will be making improvements to the intersection in this dedicated right of way as identified in the City's six year transportation improvement plan, adopted in June, 2014. See City of Auburn Resolution 5075. With the applicant's right of way dedication and projected TIP improvements, the City notes in its reconsideration request that it considers

³ The 46th Ave/312 intersection currently connects with 44th Ave to the north, creating a four way stop intersection. The relocation planned by the City involves moving the 46th Ave connection to 312 east of the 44th Ave connection, thereby converting the four way stop intersection into two "T" intersections.

impacts to the intersection “...to have been mitigated...”. Unfortunately, it’s unclear what the City considers to be adequate mitigation in this circumstance, e.g. improving the LOS to E or simply eliminating the increase in delay caused by the project. The latter is the more likely given that the applicant could not be legally required to provide any more mitigation under constitutional proportionality requirements. Either way, the improvements would satisfy the City’s concurrency standards (not lowering LOS below adopted levels).

Without improvements, the preliminary plat enabled by the proposed rezone would cause another intersection to fall from LOS D to LOS E. The westbound leg of the 51st Ave S/S 316th St intersection operated at LOS D in 2013. In 2016 it will continue to have an LOS D without the proposed Auburn Assemblage preliminary plat, but will drop to LOS E with the proposed preliminary plat. The intersection is located in King County, but the back-ups caused by the proposal would be located in Auburn. See City Reconsideration Request, p. 3. King County’s LOS is E for the intersection and Auburn’s is D⁴. Subsequent to the recommendation for denial, the applicant has proposed to make an intersection improvement that will keep the LOS at D as noted in the City’s Request for Reconsideration. With the proposed improvement, the proposal will not adversely affect traffic delays at the 51st Ave S/S 316th St intersection.

Beyond traffic impacts, no other adverse impacts associated with the rezone are reasonably discernible from the record.

6. Change in circumstances. The proposed rezone area was designated R5 when it was annexed into the City in 2008. There has been no pertinent change in circumstances since that date. The applicant’s attorney testified that sewer or water have become available in the project area, but there is nothing in the record to suggest that the applicant would have had any problem in extending sewer or water to the project site in 2008.

CONCLUSIONS OF LAW

Procedural:

⁴ This decision purposely avoids addressing whether or not the City’s LOS standards apply to the legs of any intersection when the actual intersection itself is located within King County. It is interesting to note that in the City Request for Reconsideration, the City clarified that the two intersections at issue were located in King County and were thus subject to King County standards. The examiner responded by inquiring why the City had applied the City’s LOS to one of the two intersections in its traffic review and also pointed out that the adversely affected legs of the intersections were located in the City of Auburn. City staff did not explain why they initially used the City’s LOS in assessing the intersections but answered that the LOS subsequently became a nonissue due to improvements that eliminated the LOS problem.

1. Authority of Hearing Examiner. ACC 18.68.030(B)(1)(a) grants the Hearing Examiner with the authority to review and make a recommendation on rezone requests to the City if the planning director determines that the rezone requests are consistent with the comprehensive plan. The planning director has determined that the rezone request is consistent with the comprehensive plan.

Substantive:

2. Comprehensive Plan Land Use Map Designation. The Comprehensive Plan Land Use Map designation for the proposed rezone area is “Single-Family Residential”.

3. Case Law Review Criteria and Application. The Auburn City Code does not include any criteria for rezone applications. Washington appellate courts have imposed some rezone criteria, requiring that the proponents of a rezone must establish that conditions have substantially changed since the original showing and that the rezone must bear a substantial relationship to the public health, safety, morals or welfare. *See Ahmann-Yamane, LLC v. Tabler*, 105 Wn. App. 103, 111 (2001). If a rezone implements the Comprehensive Plan, a showing that a change of circumstances has occurred is not required. *Id.* at 112.

The rezone meets the judicial criteria. The rezone bears a substantial relationship to public health, safety or welfare since it will not create any significant adverse impacts and will allow for greater densities within an urbanized area as encouraged by the Washington State Growth Management Act. The traffic generated by the proposal is not considered to be a significant adverse impact because congestion levels, as measured by LOS, will not be lowered below adopted LOS levels. As required by RCW 36.70B.030(2)(c), adopted LOS standards are determinative on the issue of adequacy of transportation facilities.

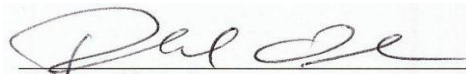
The proposal is determined to implement the comprehensive plan because it will be served by adequate public facilities as required by policies such as CF-11 and CF 12, will not create any significant adverse impacts and will provide for greater densities in an urbanized area as encouraged by the Washington State Growth Management Act, Chapter 36.70A RCW. In reviewing staff’s reconsideration arguments on the implementation issue, it sometimes appears that staff is focused upon “why not” approve a rezone from one authorized zoning district designation to another as opposed to “why” approve that rezone. It is important to recognize that there is no presumption of validity favoring a rezone. 105 Wn. App. at 111. If an applicant requests an upzone from one authorized residential density to a higher authorized residential density, that applicant must demonstrate how that upzone, as opposed to remaining at the assigned designation, implements the comprehensive plan. The extensive reconsideration argument submitted by the City gave many reasons why the R7 designation is consistent with the comprehensive plan, but there was little explanation as to why an upzone from R5 to R7 would serve to implement the comprehensive plan. There is no Washington case law yet on what it means to “implement” the comprehensive plan in an upzone. At the least it must be conceded that “implementing” the comprehensive plan means a little more than merely ending with a designation that is consistent with the comprehensive plan. Justifying an upzone

1 involving an increase in density is particularly important in areas suffering from severe
2 traffic congestion.

3 **RECOMMENDATION**

4 The approval of REZ13-0003 is recommended with no conditions.

5 Dated this 24th day of August, 2014.

6 
7 Phil A. Olbrechts

8 City of Auburn Hearing Examiner
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AGENDA BILL APPROVAL FORM

Agenda Subject:

Resolution No. 5093

Date:

September 9, 2014

Department:

Legal

Attachments:

[Resolution No. 5093](#)

Budget Impact:

\$0

Administrative Recommendation:

City Council approve Resolution No. 5093.

Background Summary:**Reviewed by Council Committees:**

Finance, Municipal Services

Councilmember: Peloza

Staff: Heid

Meeting Date: September 15, 2014

Item Number: RES.A

RESOLUTION NO. 5 0 9 3

**A RESOLUTION OF THE CITY COUNCIL OF THE
CITY OF AUBURN, WASHINGTON DECLARING A
CERTAIN ITEM OF PROPERTY AS SURPLUS AND
AUTHORIZING ITS DISPOSAL**

WHEREAS, the Auburn Police Department has a 2004 Jeep Liberty vehicle that shows approximately 120,000 miles on its odometer; and

WHEREAS, the 2004 Jeep liberty vehicle is scheduled to be replaced; and

WHEREAS, it would be appropriate to surplus the above-described property and dispose of it by auction or other sale mechanism, or to dispose of it, in whole or in part, through gift to another governmental agency or an appropriate charitable non-profit entity, as deemed most expedient by the Mayor.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF AUBURN, WASHINGTON HEREBY RESOLVES as follows:

Section 1. That the property identified below is declared to be surplus, and the Mayor is authorized to dispose of and convey such property through appropriate sale or donation to another governmental agency or charitable non-profit entity.

2004 Jeep Liberty red in color. VIN 1J4GL48K24W246337

Section 2. That the Mayor is authorized to implement such administrative procedures as may be necessary to carry out the directives of this legislation.

Section 3. That this Resolution shall take effect and be in full force upon passage and signatures hereon.

Resolution No. 5093

August 20, 2014

Page 1

RES.A

Dated and Signed this _____ day of _____, 2014.

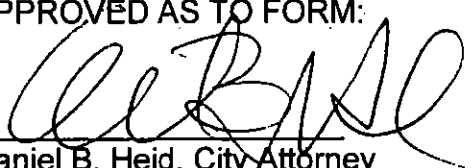
CITY OF AUBURN

NANCY BACKUS, MAYOR

ATTEST:

Danielle E. Daskam, City Clerk

APPROVED AS TO FORM:



Daniel B. Heid, City Attorney



AGENDA BILL APPROVAL FORM

Agenda Subject:

Resolution No. 5100

Date:

September 10, 2014

Department:

Public Works

Attachments:

[RES5100](#)

[Budget Status Sheet](#)

[Vicinity Map](#)

Budget Impact:

\$0

Administrative Recommendation:

City Council adopt Resolution No. 5100.

Background Summary:

Resolution No. 5100 authorizes the Mayor to award and execute a construction contract with the lowest responsible bidder for construction of public works contract number 14-11 for Project CP1410, 2014 Arterial and Collector Crack Seal Project. The bid opening is scheduled for September 16, 2014. Allowing the Mayor to award the contract will save approximately 3 weeks which will allow this project to be completed this year as the work is weather dependent.

This project will seal cracks in the pavement on approximately 9.5 lane-miles of arterial and collector roadways using rubberized asphalt to help preserve the existing pavement. The attached maps show the specific streets that will be crack sealed as part of this project.

Construction of the project is anticipated to begin in late September or early October of 2014 and be completed in October 2014 weather permitting.

The estimated cost for this project is \$97,069.00 with a project contingency of \$2,931.00. This project is funded by the 105 (Arterial and Collector Street Pavement Preservation) fund.

Reviewed by Council Committees:

Finance, Public Works

Councilmember: Osborne

Staff:

Snyder

Meeting Date: September 15, 2014

Item Number: RES.B

RESOLUTION NO. 5100

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AUBURN, WASHINGTON, AUTHORIZING THE MAYOR TO AWARD AND EXECUTE A CONSTRUCTION CONTRACT WITH THE LOWEST RESPONSIBLE BIDDER FOR CONSTRUCTION OF COMMUNITY DEVELOPMENT AND PUBLIC WORKS CONTRACT NUMBER 14-22 FOR PROJECT CP1410, 2014 ARTERIAL AND COLLECTOR CRACK SEAL PROJECT

WHEREAS, the City Council of the City of Auburn has approved a project to design and construct pavement preservation on existing arterial and collector streets consisting of 9.5 lane-miles of crack sealing, and

WHEREAS, the bid opening for the project was scheduled for September 16, 2014; and,

WHEREAS, waiting to award the construction contract until the next regularly scheduled meeting would result in a three week delay of the construction start date; and

WHEREAS, at this late stage in the construction season, that could significantly impact the success of the impending project; and

WHEREAS, the City of Auburn Community Development and Public Works Department will assess the bids received and identify the lowest responsible bidder; and

WHEREAS, it is in the public interest of the City to award and execute Community Development and Public Works construction contract number 14-22, with all expediency to take advantage of the remaining construction season.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF AUBURN, KING COUNTY, WASHINGTON, HEREBY RESOLVES as follows:

Section 1. The Mayor of the City of Auburn is hereby authorized to review bids, award, and execute a construction contract between the City of Auburn and the lowest responsible bidder for Project Number CP1410, Community Development and Public Works Contract Number 14-22, 2014 Arterial and Collector Crack Seal Project, which contract shall conform with the bid documents, provided that the bid amount does not exceed the project budget.

Section 2. The Mayor is hereby authorized to implement such administrative procedures as may be necessary to carry out the directives of this legislation.

Section 3. This resolution shall be in full force and effect upon passage and signatures hereon.

Dated and Signed this _____ day of _____, 2014.

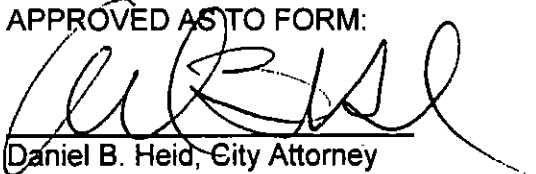
CITY OF AUBURN

NANCY BACKUS, MAYOR

ATTEST:

Danielle E. Daskam, City Clerk

APPROVED AS TO FORM:



Daniel B. Heid, City Attorney

BUDGET STATUS SHEET

Project No: Pending	Project Title: 2014 Arterial & Collector Street Crack Seal Project
Project Manager: Jai Carter	

Initiation Date: Sept. 1, 2014
 Solicitation Date: Sept. 9, 2014
 Award Date: _____

- ☐ Initiation/Consultant Agreement

☐ Permission to Advertise

☒ Resolution 5100 to Award

☐ Change Order Approval

☐ Contract Final Acceptance

Date: Sept. 8, 2014

The "Future Years" column indicates the projected amount to be requested in future budgets.

Funds Budgeted (Funds Available)

Funding	Prior years	2014	Total
105 Fund - Arterial/Collector Pavement Preservation Fund	0	100,000	100,000
Total	0	100,000	100,000

Estimated Cost (Funds Needed)

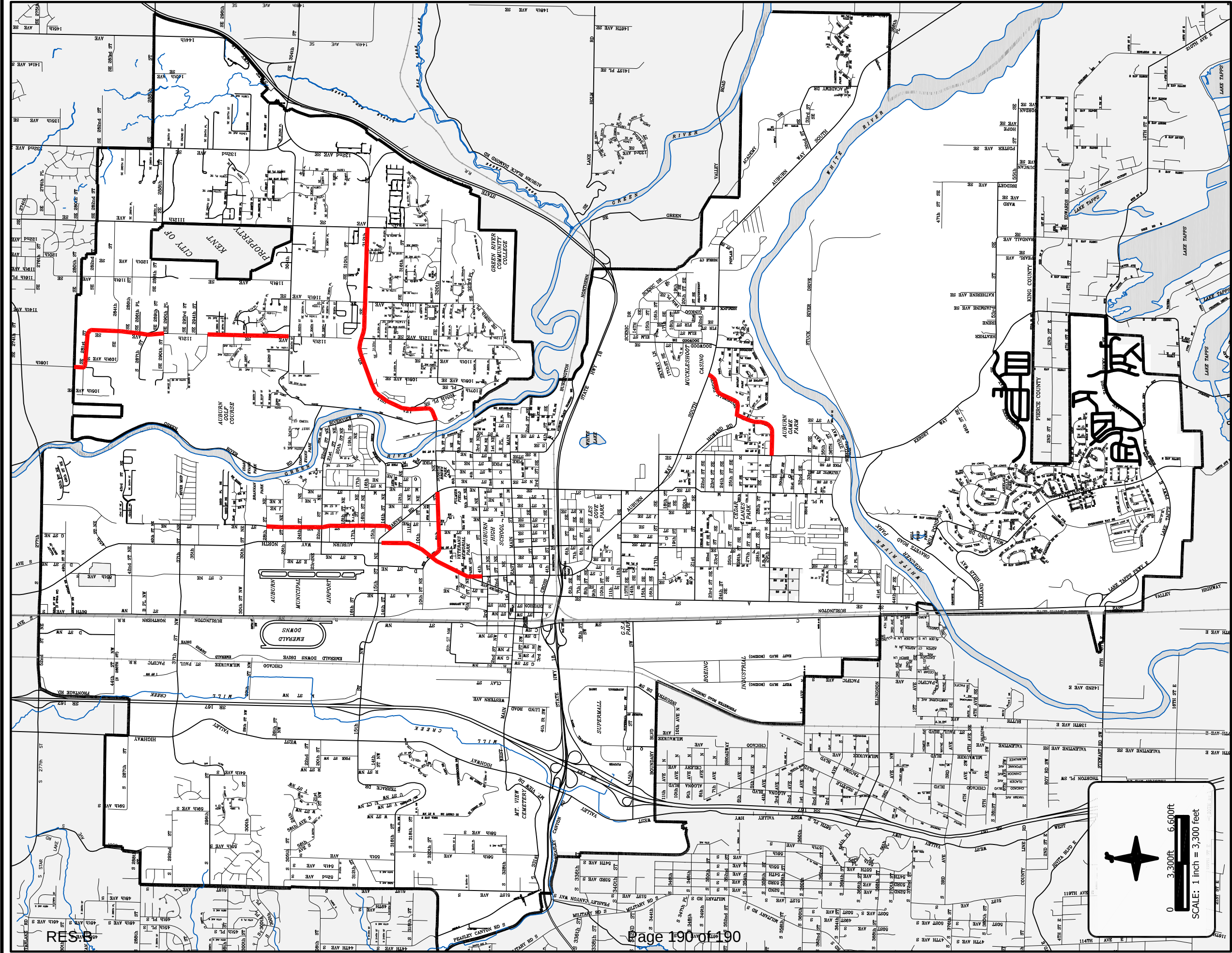
Activity	Prior years	2014	Total
Design Engineering		3,000	3,000
Construction Estimate		75,891	75,891
Project Contingency (20%)		15,178	15,178
Construction Engineering		3,000	3,000
Total	0	97,069	97,069

105 Arterial/Collector Street Budget

Status

	Prior years	2014	Total
*105 Funds Budgeted ()	0	(100,000)	(100,000)
105 Funds Needed	0	97,069	97,069
**105 Fund Project Contingency ()	0	(2,931)	(2,931)
105 Funds Required	0	0	0

* (#) in the Budget Status Sections indicates Money the City has available.



2014 ARTERIAL AND COLLECTOR CRACKSEAL PROJECT

PROPOSED PROJECT STREET (9.5 LANE-MILES TOTAL)