Tillamook County

DEPARTMENT OF COMMUNITY DEVELOPMENT

BUILDING, PLANNING & ON-SITE SANITATION SECTIONS



1510 – B Third Street Tillamook, Oregon 97141 www.tillamook.or.us

Land of Cheese, Trees and Ocean Breeze

MEMO

Date: April 7, 2022

To: Tillamook County Planning Commission

From: Sarah Absher, CFM, Director

Subject: April 14, 2022, Planning Commission Hearing – Sahhali South Replat and Conditional Use Request

#851-22-000003-PLNG/851-22-000003-PLNG-01

Included is the staff report and associated exhibits for the above-mentioned Subdivision replat and Conditional Use request to amend a Master Plan. Enclosed is a copy of all materials related to the "Sahhali South Replat" and its amendments to the Master Plan of the Planned Development of Sahhali South. This request is for the following lots within "Sahhali South": Lot 13a, 13b, 14-19, 46, 47, 48a, 48b and Lot A. The proposal includes amendments to setbacks of the above described lots within "Sahhali South", which is located within the Unincorporated Community Boundary of Neskowin.

Chris Laity, Tillamook County Public Works Director, will be joining staff for the hearing on April 14, 2022 to discuss County road standards and drainage requirements, and to answer any questions you may have during the hearing process.

This is the second hearing for this matter, on Thursday, April 14, 2022, at 6:30pm. The first hearing was continued on February 24, 2022. The hearing process will be conducted in virtual hearing/teleconference format.

Two (2) envelopes are mailed out to the Planning Commission due to the size of the plat and maps with the request.

The hearing can be accessed via teleconference and live video. To access the live video or virtual meeting, please visit the Tillamook County Planning Commission homepage for meeting options: https://www.co.tillamook.or.us/bc-pc. For teleconference access the evening of the hearing, please call 971-254-3149. Conference ID: 162 123 896#.

<u>Oral Testimony Procedure:</u> Oral testimony will be heard at the hearing. <u>If you wish to provide oral testimony at the hearing during the public comment period, please email Lynn Tone, DCD Office Specialist at <u>Itone@co.tillamook.or.us</u> <u>prior to 6:00pm on the date of the hearing to make arrangements to speak.</u> Ms. Jenck will call upon those wishing to provide oral testimony at the hearing once the public comment portion of the hearing is opened by the Planning Commission Chair. The order of comments will be announced at the beginning of the public comment period.</u>

Written Testimony: Written testimony may be submitted to the Tillamook County Department of Community Development, 1510-B Third Street, Tillamook, Oregon, 97141 prior to 4:00 p.m. on the date of the hearing. Failure of an issue to be raised in a hearing, in person or by letter, or failure to provide sufficient specificity to afford the decision-maker an opportunity to respond to the issue precludes appeal to the Land Use Board of Appeals on that issue. Please contact Melissa Jenck, CFM, Land Use Planner II, Tillamook County Department of Community Development, mjenck@co.tillamook.or.us as soon as possible if you wish to have your comments provided to the Planning Commission at the April 14, 2022, hearing.

Please do not hesitate to contact me if you have any questions.

Thank You,

TILLAMOOK COUNTY PLANNING COMMISSION

To Be Held April 14, 2022- Beginning at 6:30p.m.

VIRTUAL & TELECONFERENCE MEETING

The Tillamook County Courthouse is closed to the public at this time and hearing proceedings are taking place in virtual meeting format only. The hearing can also be accessed via teleconference. For teleconference access the evening of the hearing, please call 971-254-3149. Conference ID: 887 242 77#. Virtual Meeting Access: https://www.co.tillamook.or.us/commdev. Click on Virtual Teams Link. *Microsoft Teams Meeting Format.

- I. CALL TO ORDER
- II. ROLL CALL
- III. OLD BUSINESS:

#851-22-000293-PLNG: Request for replat of a subdivision plat approval for a portion of "Sahhali South" together with Conditional Use request #851-22-0000003-PLNG-01, to amend the Planned Development Master Plan, on a property accessed off Highway 101 South, a state highway, through Heron View Drive and Proposal Point Drive, private roads, and located in the Unincorporated Community of Neskowin. The subject property is zoned Neskowin rural Residential zone (NeskRR) and is designated as Tax Lots 1200, 1201, 1400, 1500, 1600, 1700, 1800, 1900, 4600, 4700, 4800, 4801 and 5900 of Section 24AB, Township 5 South, Range 11 West of the Willamette Meridian, Tillamook County, Oregon. The Property Owner is Sahhali South LLC. The Applicant is Richard Boyles.

IV. NEW BUSINESS:

NONE

- V. AUTHORIZATION FOR CHAIR TO SIGN APPROPRIATE ORDERS, IF NECESSARY
- VI. ADMINISTRATIVE DECISIONS: Administrative Decisions are available for public review on the Tillamook County Department of Community Development website: https://www.co.tillamook.or.us/commdev/landuseapps
- VII. HOUSING COMMISSION UPDATE
- VIII. DEPARTMENT OF COMMUNITY DEVELOPMENT REPORT
- IX. ADJOURNMENT

The Courthouse is accessible to citizens with disabilities. If special accommodations are needed for persons with hearing, visual, or manual impairments that wish to participate in the meeting, please contact 1-800-488-8280 at least 24 hours prior to the meeting in order that appropriate communications assistance can be arranged.

Tillamook County

DEPARTMENT OF COMMUNITY DEVELOPMENT BUILDING, PLANNING & ON-SITE SANITATION SECTIONS



1510 – B Third Street Tillamook, Oregon 97141 www.co.tillamook.or.us Building (503) 842-3407 Sanitation (503) 842-3409 Planning (503) 842-3408 FAX (503) 842-1819 Toll Free 1(800) 488-8280

Land of Cheese, Trees and Ocean Breeze

PRELIMINARY SUBDIVISION REPLAT REVIEW REQUEST FOR A PORTION OF "SAHHALI SOUTH" #851-22-000003-PLNG

&

CONDITIONAL USE REVIEW #851-22-000003-PLNG-01

Planning Commission Hearing Date: April 14, 2022 Staff Report Date: April 7, 2022

Staff Report Prepared by: Melissa Jenck, CFM, Land Use Planner II

I. GENERAL INFORMATION:

Request: Request for replat of a subdivision plat approval for a portion of "Sahhali South" together

with Conditional Use request #851-22-000003-PLNG-01, to amend the Planned

Development Master Plan.

Location: The subject property is located within the Community Growth Boundary for Neskowin

and is accessed from Highway 101, through Heron View Drive and Proposal Point Drive, private roads. The subject properties are designated as Tax Lots 1300, 1301, 1400, 1500, 1600, 1700, 1800, 1900, 4600, 4700, 4800, 4801 and 5900 of Section 24AB, Township

5 South, Range 11 West of the Willamette Meridian, Tillamook County, Oregon.

Zone: Neskowin Rural Residential (NeskRR) Zone & Planned Development Overlay (PD)

Zone

Applicant: Richard Boyles, 840 Beltline Road, Springfield, OR 97477

Property Owner: Sahhali South LLC, 840 Beltline Road, Springfield, OR 97477

II. <u>Description of Site and Vicinity</u>

The subject property is located within the Neskowin Unincorporated Community (Exhibit A).

The subject property is bordered by Neskowin Rural Residential (NeskRR) zoned parcels to the north, south, east and west, and Rural Residential 2-acre (RR-2) zoned parcels to the north (Exhibit A).

The subject property is irregular in shape and approximately 73 acres (Exhibit A). Heron View Drive, a private road, abuts the northerly boundary the subject property (Exhibits B). Proposal Point Loop, a private road, runs north/south thru the subject property (Exhibit B). Proposal Point Loop intersect Sahhali Drive, which is the entrance off Highway 101, a State highway, to the east (Exhibit A).

There is existing open space as part of Sahhali South abutting the easterly and southerly boundary of the subject properties (Exhibit A). Sahhali Shores and Sahhali Shores at Neskowin Subdivisions are northerly of the subject properties (Exhibit A).

Service providers include the Neskowin Water District, Nestucca Rural Fire Protection District, Tillamook PUD, Nestucca School District, and the Tillamook County Sheriff's Office. The subject property maintains an existing community septic system (Exhibit B). Responses to notice of this proposal from service providers and public agencies are included in "Exhibit C" of this report.

The Tillamook County Land Division Ordinance (LDO) requires Property Line Adjustments within Subdivisions to be accomplished by replatting. Applicant states the request is for 13-lots owned by the Applicant within Sahhali South subdivision to be re-platted, allowing for property line adjustments to Lots 14-19, property line adjustments for Lots 46, 47, 48a & 48b to be reoriented as Lots 46, 47 and 48, partition Area A currently designated as Open Space into two (2) buildable lots, along with replatting Lots 13a & 13b to allow for reorientation of these lots and restore the Open Space area removed from Area A (Exhibit B). With the adjustments and land division proposed, the Applicant is requesting amendment to the setbacks originally prescribed in the Master Plan for Sahhali South (Exhibit B). The Conditional Use review process is required for any changes to the approved Master Plan developed with the Planned Development Overlay.

A. Natural Features

- 1. <u>Topography:</u> The site is characterized by three main features, a long, sloping ridge that runs generally northeast to the southwest; a wetland/marsh area surrounding the base of the ridge on the west, south and southeast and; the dunes of the dunes beach of the Pacific Ocean.
- 2. <u>Soils:</u> Soils as detailed in the landscaping plan are of Neskowin, Hembre, and Winema associations. It is noted that the soils drain well and relatively high in organic matter (Exhibit B).
- 3. <u>Vegetation:</u> The subject properties included in the request appear well vegetated with sparce Sitka Spruce, along with wetland vegetation in the marsh area (Exhibit A & B).
- 4. <u>Water Features:</u> The National Wetland Inventory Mapper (NWI) identify wetlands on the subject property and identifies riverine features (Exhibit A). Significant marsh/wetlands surround the base of the ridge. Oregon Department of State Lands (DSL) details that an updated delineation for the project area be recommended (Exhibit C).

The subject property is identified on Flood Insurance Rate Maps #41057C0865F dated September 28, 2018 and is located within the 'Zone X' flood zone, outside of the Special Flood Hazard Area (Exhibit A). There are portions of the subject property within 'AE zone' mapped floodplain, but the proposed layout of the lots will be held entirely outside of the SFHA.

B. Comprehensive Plan Policies

The natural features identified on the subject property are not included in the list of inventoried protected natural features in the Goal 5: Natural Resources element of the Tillamook County Comprehensive Plan. Development of the subject property shall be done in accordance with the development standards of Section 4.130: Development Requirements for Geologic Hazard Areas, consistent with the policies outlined in the Goal 7: Hazards element of the Tillamook County Comprehensive Plan.

851-22-000003-PLNG Page 2

Tillamook County established an Unincorporated Community Boundary (UCB) around Neskowin based on the procedures and requirements of the Goal 2 exception process. Planning for the unincorporated community of Neskowin was completed in accordance with Goal 14 Urbanization. The proposed plat is located within the Neskowin Unincorporated Community Boundary at a density consistent with Plan policies for development within UCBs (14.3.11, Goal 14 element of the Comprehensive Plan).

III. APPLICABLE ORDINANCE PROVISIONS & ANALYSIS:

A. Tillamook County Land Use Ordinance

1. Section 3.220 Neskowin Rural Residential (NeskRR) Zone. This section lists outright and conditionally permitted uses.

Findings: The applicant is requesting an amendment to the Master Plan for Sahhali South to reflect the complete build-out of all available area and tracts. Section 3.220(3)(a) addresses the issue of Planned Developments as a Conditional Use. Amending the existing Planned Development is subject to Section 3.520 Planned Development Overlay Zone (PD) and requires Conditional Use approval, Article VI.

Section (4)(a) of Section 3.220 states that "...the minimum lot size is 20,000 square feet...". Exhibit B indicates the total acreage for the subject area is 73 acres. The proposed amendment to established Planned Development would take the existing overall lot area of 1.99 lots per acre, to 2.02 lots per acre.

Staff concludes that the proposed use is allowed in the NeskRR Zone as a Conditional Use as indicated under Section 3.220(3)(a).

- 2. Section 3.520 Planned Development Overlay Zone (PD). This section lists the procedures that shall be observed in applying for and acting on a Planned Development. Section 3.520(i) requires that any changes in the approved plan be approved by the Planning Commission. The Applicant is proposing to make amendments to lot layout for Lots 14-19, 46, 47, 48a, 48b, 13a, 13b, along with diving Lot A into two (2) parcels (Exhibit B). Section 3.520(3)(b) addresses the procedure for amending an existing Planned Development. These include:
 - (1) There are special physical conditions or objectives of development which the proposal will satisfy to warrant a departure from the standard ordinance requirements.

Findings: The proposed lots are designed to meet the standards of the zone with common area. The purpose of a Planned Development Overlay is "...to permit greater flexibility and creativity in the design of land development than is presently possible through the strict interpretation of conventional zoning and land division ordinances. The intent is to encourage development designs that preserve and/or take advantage of the natural features and amenities of a property such as, but not limited to, views water frontage, wetlands, sloping topography, geologic features and drainage areas. A Planned Development should be compatible with the established and proposed surrounding land uses. A Planned Development should accrue benefits to the County and the general public in terms of need, convenience and service sufficient to justify any necessary exceptions to the zoning and land divisions ordinances."

The request is to modify an existing Master Plan to adjust lot boundaries and setbacks, along with the generation of one (1) net lot in the subdivision (Exhibit B). The flexibility of the Planned Development process allows for dimensional standards and setbacks to be prescribed through the creation of the Master Plan. The setbacks originally prescribed in the Master Plan for Sahhali South include: Lots 1-12 & 14-47 shall have front yard setbacks at 10-feet, with attached side yards at zero (0) feet and side yards at 10-feet; Lots 49-56 shall maintain setbacks as prescribed by the NeskRR zone standards. Lots 48a, 48b and Lot 13 were amended to allow for Lot 13 to maintain townhomes and Lot 48 with detached dwellings, in the Master Plan amendment approved in 2007 (Exhibit B).

851-22-000003-PLNG Page 3

Applicant has proposed to amend the site-specific setbacks established during the Master Plan development of Sahhali South (Exhibit B). Setbacks for Lot 48 remain unchanged as it was established to allow for detached single-family dwellings. Setbacks for Lots 13a, 13b, 14-19, 46, 47, are proposed to to allow for attached or detached dwellings. Proposed Lots A1 and A2 is currently a lot which is designated Open Space and is proposed to be partitioned into two (2) parcels (Exhibit B). The setbacks as indicated by the Applicant are as follows:

Lot #	Attached Setbacks (Front, Side, Side attached, Rear) Measured in feet	Detached Setbacks (Front, Street Side, Side, Rear) Measured in feet
A1, A2, 14-19	20, 10, 0, 10	20, 15, 5, 10
13a, 13b, 46, 47, 48		20, 15, 5, 10

Staff finds the Applicant will need to clarify whether they intend to have different front and rear yard setbacks in the proposed Master Plan updates, rather than those prescribed by the original Sahhali South Master Plan. Proposed building footprints may be prescribed through the Planned Unit Development standards discussed above in this report.

Lots 14-19 are to have a property line adjustment to allow for greater utilization of a homesite outside of steep slopes, while allowing both attached or detached single-family dwellings (Exhibit B). Applicant states the adjustment would orient the Lots 14-19 toward Proposal Point Drive (Exhibit B). Lots 46, 47, and 48a and 48b are proposing property line adjustments, which will result in consolidated of Lots 48a and 48b to Lot 48. Lot 46 as adjusted will be oriented off Proposal Point Drive, Lot 47 as adjusted will maintain access from Venora Street, and Lot 48a and 48b as combined will maintain access from Venora Street (Exhibit A). The Applicant is also proposing to create two (2) lots from Area A and reorientation of Lots 13a and 13b (Exhibit B). Lots 13a and 13b as adjusted will be re-positioned on the property off steep slopes, while redesignating the open space in their original area (Exhibit B).

(2) Resulting development will not be inconsistent with the comprehensive plan provisions or zoning objectives of the area.

Findings: The proposed use of the lots is for residential structures, some attached and some detached. This is consistent with the zone and the community plan for Neskowin.

(3) The plan can be completed within a reasonable period of time.

Findings: The applicant has not identified a time period for which they will complete this plan, however a time period can be discussed at the April 14th hearing.

(4) The streets are adequate to support the anticipated traffic and the development will not overload the streets outside the planned area.

Findings: There are no proposed changes to access or existing roadway systems in the development, other than proposed turnarounds at the terminus of Venora Street and Thalassa Drive (Exhibit B). Applicant stated the only additional improvement is two turnarounds, consistent with the 2019 Oregon Fire Code Appendix D. The first at the terminus of Venora Street to serve Lots 47 and 48 and the second at the terminus of Thalassa Drive to serve Lots 13a and 13b (Exhibit B).

Chief Jim Oeder of the Nestucca Rural Fire Protection provided a statement that they were agreeable to the design but was concerned with the failure occurring on Thalassa Drive (Exhibit C). Tillamook County

Public Works Director Chris Laity details that there is an ongoing failure along the existing lower road (Thalassa Drive) that is likely due to drainage. Director Laity also provides that the turnaround adjacent to Proposed Lot 13-B does not demonstrate if a necessary retaining wall can be constructed within the platted area (Exhibit C).

(5) Proposed utility and drainage facilities are adequate for the population densities and type of development proposed.

Findings: The proposed development connects to a community sanitary system as detailed in the Applicants submittal (Exhibit B). Applicant states the existing 2015 DEQ Permit for domestic sewage maintains availability for the existing lots and the net one (1) additional lot (Exhibit B). Documentation in the Applicants submittal concludes that the existing system and proposed net gain of one (1) lot to the of the system being acceptable (Exhibit B).

Water is available through an existing Neskowin community water district (Exhibit B). A service letter from Neskowin Regional Water was included in the Applicants submission (Exhibit B).

Applicant states that the same drainage patterns will be utilized as originally approved through the Planned Unit Development (Exhibit B).

TCPW Director Chris Laity details concerns regarding drainage, as it appears to be affecting Thalassa Drive which is experiencing ongoing failure (Exhibit C).

(6) The parcel is suitable for the proposed use, considering its size, shape, location, topography, existence of improvements, and natural features.

Findings: The development is oceanfront, contains wetlands, and is located in the Community of Neskowin. The size of the proposed lots will meet the minimum in the Neskowin Rural Residential zone of 20,000 square feet with the area made up of lot area and area within the common areas. The Planned Development process allows for smaller lot sizes providing all area is accounted for. The proposed shape of the lots are generally rectangular with access from private roadways.

The housing is proposed to be a mixture of detached and attached residential structures.

Applicant states this proposed amendment simplifies Lots A-1, A-2, 13a, 13b, 14-19, 46-48, with the only addition being two firetruck turnarounds (Exhibit B). The overall parcel is suitable for the proposed use based on size and available services. Each building site is proposed to have access to the Neskowin Regional Water District. Sanitation approval is through a community system approved through the Department of Environmental Quality (DEQ) and is to be available to each site.

Site specific setbacks are proposed through the Planned Development process. These are discussed in this report, above (Exhibit B). The proposed request is to modify an existing Master Plan for Sahhali South which was approved in 2005. The proposed setback amendments and adjustment of lots are stated by the Applicant to avoid topographic and hazard areas of the existing lots (Exhibit B).

Comments were received from the Oregon Department of State Lands (DSL) detailing that an updated delineation for the project area be recommended (Exhibit C).

Staff finds the proposed adjustments through property line adjustments are to allow for a setbacks outside of steep slopes, reducing potential risks to development.

(7) The proposed use will not alter the character of the surrounding area in a manner which substantially limits, impairs or prevents the use of surrounding properties for the permitted uses listed in the underlying zone.

Findings: The proposed replat to Sahhali South is located within the Neskowin Unincorporated Community Boundary (UCB) and consists of residential structures (dwellings) on lots with an average density of 2.02 lots per acre. This includes common space. The area surrounding the Planned Development is predominantly residential, both inside the community boundary and outside. The original Planned Development maintained 1.99 lots per acre (Exhibit B).

(8) The proposed use is timely, considering the adequacy of public facilities and services existing or planned for the area affected by the use.

Findings: All services are proposed to be available to the lots. The applicant's submittal demonstrates that adequate power and access to public roadways to meet the proposed lots can be developed as part of the Planned Development. Tillamook County Public Works Director Laity confirms they have no objections to the proposal, but details concerns relating to the proposed turnarounds maintaining adequate area for improvements along with an ongoing failure to Thalassa Drive due to poor drainage that needs to be addressed (Exhibit C). Nestucca Rural Fire Protection District Chief Oeder stated they were agreeable to the proposed design but had concerns regarding Thalassa Drive failure (Exhibit C). Applicant provided a copy of the 2015 DEQ community system permit for sewage service and includes documentation from DEQ that the existing system and proposed net one (1) lot are acceptable (Exhibit B). Applicant states the property is served by Neskowin Regional Water District and provides a service letter within their submission (Exhibit B).

(9) Proposed uses which are not otherwise permitted by the underlying zoning on the parcel are accessory uses within the entire development.

Findings: No other uses have been proposed that are not otherwise permitted outright or through a Conditional Use Request within the underlying zone. The Applicant is proposing redesign of existing lots, along with adjustments to setbacks, to allow for siting of attached or detached residential structures, which is maintained by the Planned Development at this time (Exhibit B).

3. TCLUO Section 4.130: Development Requirements for Geologic Hazard Areas. The Sahhali South development is located within an area of geologic hazard (landslide topography) and a Geologic Hazard Report (GHR) is required as part of this development review process. A previous GHR had been prepared by John Jenkins, CEG, of Environmental Management Systems, Inc. (Exhibit B).

Findings: Recommended development standards for design/construction of roads, locations of structures, land grading practices for subdivision improvements, vegetation and re-vegetation practices, foundation design and stormwater management both during subdivision construction as well as when lots are developed are also included in the GHR.

A new geologic hazard report was not required by staff for review of the proposal as the original report remains valid for the design of the subdivision.

Given the hazards of the site as described in the GHR, the steep slopes of the subject property and proposed lots, a Condition of Approval is recommended to require site-specific Geologic Hazard Reports in accordance with TCLUO Section 4.130 at time of individual lot development. This requirement ensures that continued development of the site is appropriately addressed in accordance with TCLUO Section 4.130 at the time of individual lot construction.

4. Article VI Conditional Use Procedures and Criteria. Article VI of the Tillamook County Land Use Ordinance contains the procedures and review criteria for processing a Conditional Use request. These criteria, along with staff's findings and conclusions are indicated below.

Page 6

851-22-000003-PLNG

1. Section 6.020 Procedure requires notification of the request to be mailed to landowners within 250-feet of the subject property, to allow 10 days for written comment, and requires staff to consider comments received in making the decision.

Findings: Notice of the request was mailed to property owners and applicable agencies. Their responses are included in 'Exhibit C'. In summary, the public comments stated:

- Concerns of the exchange of Open Space location to steep slopes, which become difficult for persons to enjoy.
- Concerns that character of the area will be disrupted by allowing for detached single-family dwelling structures, rather than attached residential structures (dwelling) designs.

2. Section 6.040 Review Criteria

1. The use is listed as a Conditional Use in the underlying zone, or in an applicable overlying zone.

Findings: Section 3.220(3)(a) Neskowin Rural Residential Zone states that all Planned Developments are subject to Section 3.520 and will require review against Section 6.040 Conditional Use Review Criteria.

2. The use is consistent with the applicable goals and policies of the comprehensive plan.

Findings: Generally, if a use is allowed outright or conditionally in the LUO, and is in compliance with all other LUO regulations, than it is assumed to be consistent with the applicable goals and policies of the Comprehensive Plan and the Neskowin Community Plan. A Planned Development in the community of Neskowin is limited to the uses allowed within the Neskowin zones. Planned Developments for single family dwellings and townhouses are permitted uses.

The Planned Development Overlay (PD) zone allows for greater flexibility in the siting of structures, the protection of areas that are sensitive and the overall use of the property. For all of its flexibility it can be a protective mechanism.

The property is eligible for development providing that all requirements of the Planned Development Ordinance, the Tillamook County Land Use Ordinance and the goals and policies of the Comprehensive Plan have been adequately and appropriately addressed.

The natural features identified on the subject property are not included in the list of inventoried protected natural features in the Goal 5: Natural Resources element of the Tillamook County Comprehensive Plan. Development of the subject property shall be done in accordance with the development standards of Section 4.130: Development Requirements for Geologic Hazard Areas, consistent with the policies outlined in the Goal 7: Hazards element of the Tillamook County Comprehensive Plan.

Tillamook County established an Unincorporated Community Boundary (UCB) around Neskowin based on the procedures and requirements of the Goal 2 exception process. Planning for the unincorporated community of Neskowin was completed in accordance with Goal 14 Urbanization. The proposed plat is located within the Neskowin Unincorporated Community Boundary at a density consistent with Plan policies for development within UCBs (14.3.11, Goal 14 element of the Comprehensive Plan).

3. The parcel is suitable for the proposed use considering its size, shape, location, topography, existence of improvements and natural features.

Findings: The development is oceanfront, contains wetlands, and is located in the Community of Neskowin. The size of the proposed lots will meet the minimum in the Neskowin Rural Residential zone of 20,000 square feet with the area made up of lot area and area within the common areas. The Planned Development process allows for smaller lot sizes providing all area is accounted for. The proposed shape of the lots are generally rectangular with access from private roadways.

The housing is proposed to be a mixture of detached and attached residential structures.

Applicant states this proposed amendment simplifies Lots A-1, A-2, 13a, 13b, 14-19, 46-48, with the only addition being two firetruck turnarounds (Exhibit B). The overall parcel is suitable for the proposed use based on size and available services. Each building site is proposed to have access to the Neskowin Regional Water District. Sanitation approval is through a community system approved through the Department of Environmental Quality (DEQ) and is to be available to each site.

Site specific setbacks are proposed through the Planned Development process. These are discussed in this report, above (Exhibit B). The proposed request is to modify an existing Master Plan for Sahhali South which was approved in 2005. The proposed setback amendments and adjustment of lots are stated by the Applicant to avoid topographic and hazard areas of the existing lots (Exhibit B).

Comments were received from the Oregon Department of State Lands (DSL) detailing that an updated delineation for the project area be recommended (Exhibit C).

Staff finds the proposed adjustments through property line adjustments are to allow for a setbacks outside of steep slopes, reducing potential risks to development.

The proposed use will not alter the character of the surrounding area in a manner which 4. substantially limits, impairs or prevents the use of surrounding properties for the permitted uses listed in the underlying zone.

Findings: The Applicant states the character of the area is of detached and attached dwellings (Exhibit B). The proposed Planned Development, Sahhali South, is located within the Neskowin Unincorporated Community Boundary (UCB) and consists of single-family dwellings on lots with an average density of 2.02 lots per acre. This includes common space. The area surrounding the Planned Development is predominantly residential, both inside the community boundary and outside. The original Planned Development maintained 1.92 lots per acre (Exhibit B).

Comments received on the record were concerned with allowance of detached single-family dwellings on the lots, instead of attached dwellings (Exhibit C).

5. The proposed use will not have a detrimental effect on existing solar energy systems, wind energy conversion systems or wind mills.

Findings: The site visit determined the only wind energy conversion system would not be impacted due to distance. There are no other existing solar energy systems or windmills in the vicinity.

6. The proposed use is timely, considering the adequacy of public facilities and services existing or planned for the area affected by the use.

Findings: All services are existing in the area and continue to be available. The applicant's submittal demonstrates that adequate power and access to public can be developed as part of the Planned Development. Tillamook County Public Works Director Laity confirms they have no objections to the proposal, but details concerns relating to the proposed turnarounds maintaining adequate area for improvements along with an ongoing failure to Thalassa Drive due to poor drainage that needs to be addressed (Exhibit C). Nestucca Rural Fire Protection District Chief Oeder stated they were agreeable to the proposed design but had concerns regarding Thalassa Drive failure (Exhibit C). Applicant provided a copy of the 2015 DEQ community system permit for sewage service and includes documentation from DEQ that the existing system and proposed net one (1) lot are acceptable (Exhibit B). Applicant states the property is served by Neskowin Regional Water District and provides a service letter within their submission (Exhibit B).

B. Land Division Ordinance (LDO) Requirements

1. Section 60: Preliminary Plat Submission Requirements.

This section specifies what general information is required on a preliminary plat, information about existing conditions of the site, information about the proposed development allows the Department to require certain additional information to supplement the proposed plan of the subdivision.

Findings: Staff confirmed with County Surveyor Michael Rice, PLS, that the proposed name, "Sahhali South Replat" does not duplicate the name of any other subdivision in the County. All of the other information required under this section is included on the preliminary plat, existing and proposed streets, existing and proposed easements and locations of natural features (Exhibit B).

2. Section 70: Preliminary Plat Approval Criteria.

- (1) Approval Criteria. The Approval Authority (Director for partitions and Planning Commission for subdivisions) may approve, approve with conditions or deny a preliminary plat. The Approval Authority decision shall be based on findings of compliance with all of the following approval criteria:
 - (a) The land division application shall conform to the requirements of this ordinance;
 - (b) All proposed lots, blocks, and proposed land uses shall conform to the applicable provisions of the Land Use Ordinance Article 3 Zone Regulations and the standards in Section 150 of this ordinance;

Findings: The lots within Sahhali South identified as Lots 14-19, 13a, 13b, 46, 47, 48a, 48a and Lot A are made part of this request (Exhibit B). All lots abut a private street for at least 25-feet. Section (4)(a) of TCLUO Section 3.220 states that "...the minimum lot size is 20,000 square feet...". Exhibit B indicates the total acreage for the subject area is 73 acres. The proposed amendment to established Planned Development would take the existing overall lot area of 1.99 lots per acre, to 2.02 lots per acre. (Exhibit B).

(c) Access to individual lots, and public improvements necessary to serve the development, including but not limited to water, sewer and streets, shall conform to the standards in Sections 150 and 160 of this ordinance;

Findings: Heron View Drive, Proposal Point Drive, Venora Street, and Thalassa Drive, private roads, are existing roads throughout the subdivision which serve the existing subject properties included in this request (Exhibit B). The Applicant is proposing turnarounds at the terminus of Thalassa Drive and Venora Street, as these are dead end streets (Exhibit B). The turnaround at the terminus of Venora Street is for the benefit of proposed Lot 47 and 48, which the turnaround at the terminus of Thalassa Drive is for the benefit of proposed Lots 13a and 13b (Exhibit B). Proposed Lots 14-19 and 46 will maintain adequate frontage and access from Proposal Point Drive (Exhibit B). Proposed Lot A-1 and A-2 will maintain frontage along Proposal Point Drive (Exhibit B).

Any improvements necessary to serve the proposed development are discussed in letters provided by the Tillamook County Public Works Department contained within 'Exhibit C'. Director Laity details that there is an ongoing failure along the existing lower road that is likely due to drainage. Director Laity also provides

851-22-000003-PLNG Page 9

that the turnaround adjacent to Proposed Lot 13-B does not demonstrate if a necessary retaining wall can be constructed within the platted area (Exhibit C). At time of the Staff Report, no comments were received from the Nestucca Rural Fire Protection District.

Applicant has proposed to amend the site-specific setbacks established during the Master Plan development of Sahhali South (Exhibit B). The setbacks are discussed further in this report, above.

(d) The proposed plat name is not already recorded for another subdivision, does not bear a name similar to or pronounced the same as the name of any other subdivision within the County, unless the land platted is contiguous to and platted by the same party that platted the subdivision bearing that name or unless the party files and records the consent of the party that platted the contiguous subdivision bearing that name;

Findings: The County Surveyor Director Michael Rice has confirmed that the proposed name, "Sahhali South Replat" is not already recorded and is not similar to the name of any other subdivision within the County (Exhibit B).

(e) The proposed streets, utilities, and surface water drainage facilities conform to Tillamook County's adopted master plans and applicable engineering standards and, within Unincorporated Community Boundaries, allow for transitions to existing and potential future development on adjacent lands. The preliminary plat shall identify all proposed public improvements and dedications;

Findings: The County Engineer (Tillamook County Public Works Director) is charged with the authority to review proposed streets, utilities and surface water drainage facilities, ensuring conformance with master plans and applicable engineering standards. Applicant has provided materials detailing no changes to access or existing roadway systems in the development, other than proposed turnarounds at the terminus of Venora Street and Thalassa Drive (Exhibit B).

Applicant stated the only additional improvement is two turnarounds, consistent with the 2019 Oregon Fire Code Appendix D. The first at the terminus of Venora Street to serve Lots 47 and 48 and the second at the terminus of Thalassa Drive to serve Lots 13a and 13b (Exhibit B).

Director Laity details that there is an ongoing failure along the existing lower road that is likely due to drainage. Director Laity also provides that the turnaround adjacent to Proposed Lot 13-B does not demonstrate if a necessary retaining wall can be constructed within the platted area (Exhibit C). Director Chris Laity will present their findings at the April 14, 2022 Planning Commission hearing.

- (f) All proposed private common areas and improvements, if any, are identified on the preliminary plat and maintenance of such areas is assured through appropriate legal instrument; and
- (g) Provisions for access to and maintenance of off-right-of-way drainage, if any;

Findings: Open Space area is identified on the original Sahhali South plat and the proposed adjustments will result in a reorientation of the location of open space (Exhibit B). Director Laity of TCPW details concerns regarding drainage along Thalassa Drive which is to serve Lots 13a and 13b (Exhibit C). Staff recommends that should the Planning Commission approve this request, a Condition of Approval be made to require all improvements and easements be recorded, including a long-term stormwater management agreement for future property owners.

(h) Evidence that any required State and Federal permits, as applicable, have been obtained or can reasonably be obtained prior to development; and

Findings: Comments were received from Oregon Department of State Lands (DSL) detailing that an updated delineation for the project area be recommended (Exhibit C). Staff recommends that a Condition of Approval be made requiring all local, state and federal permits be obtained and that copies of permits be submitted to the Department of Community Development prior to development of the subject property.

- (i) Evidence that improvements or conditions required by the road authority, Tillamook County, special districts, utilities, and/or other service providers, as applicable to the project, have been or can be met, including but not limited to:
 - (i) Water Department/Utility District Letter which states that the partition or subdivision is either entirely excluded from the district or is included within the district for purposes of receiving services and subjecting the partition or subdivision to the fees and other charges of the district.
 - (ii) Subsurface sewage permit(s) or site evaluation approval(s) from the appropriate agency.

Findings: A service letter was provided by Neskowin Regional Water District in the Applicants submission materials. There was a detailed letter from Oregon Department of Environmental Quality (DEQ) which detailed no concerns for the proposed net (1) additional lot to the existing community system (Exhibit B).

(2) Conditions of Approval. The Approval Authority may attach such conditions as are necessary to carry out provisions of this Code, and other applicable ordinances and regulations.

Findings: A list of recommended Conditions of Approval have been included in Section VI of this report should the Planning Commission approve this preliminary plat.

3. Section 130: Property Line Adjustments

Property Line Adjustments within subdivisions shall be accomplished by replatting in accordance with LDO Section 120.

Findings: Applicant is pursuing a replat of the Sahhali South subdivision on accordance with LDO Section 120. The approval criteria of LDO Section 130 apply and are as follows:

i. Parcel Creation. No additional parcel or lot is created by the lot line adjustment.

Finding: No lot is being created by the lot line adjustment (Exhibit B). Applicant is adjusting Lots 13a, 13b, Lots 14-19, and Lots 46, 47, 48a & 48b (Exhibit B). Lot 48a and 48b will be consolidated into Lot 48 as adjusted. Partition of Area A into two (2) buildable lots is addressed in the land division portion of this report, above.

ii. Lot standards.

- 1. All lots and parcels conform to the applicable lot standards of the zone including lot area, dimensions, setbacks, and coverage, except where 2. or 3. applies.
- 2. For properties entirely outside an Unincorporated Community Boundary, where one or both of the abutting properties are smaller than the minimum lot or parcel size for the applicable zone before the property line adjustment, one property shall be as large or larger than the minimum lot or parcel size for the applicable zone after the adjustment.
- 3. For properties entirely outside an Unincorporated Community Boundary, both abutting properties are smaller than the minimum lot size for the applicable zone before and after property line adjustment.

Findings:

- Staff finds that the applicant is requesting an amendment to the Master Plan for Sahhali South to reflect the complete build-out of all available area and tracts. Section (4)(a) of TCLUO Section 3.220 states that "...the minimum lot size is 20,000 square feet...". Exhibit B indicates the total acreage for the subject area is 73 acres. The proposed amendment to established Planned Development would take the existing overall lot area of 1.99 lots per acre, to 2.02 lots per acre (Exhibit B).

851-22-000003-PLNG Page 11

- Setbacks and lot dimensions shall be established through the Planned Development process. An approved Master Plan for Sahhali South is being amended through this process for reorienting the subject properties (Exhibit B).
- Staff concludes that these criteria have been met.
- 4. As applicable, all lots and parcels shall conform to the Tillamook County Flood Hazard Overlay Zone.

Findings:

- The subject property is identified on Flood Insurance Rate Maps #41057C0865F dated September 28, 2018 and is located within the 'Zone X' flood zone, outside of the Special Flood Hazard Area (Exhibit A). There are portions of the subject property within 'AE zone' mapped floodplain, but the proposed layout of the lots will be held entirely outside of the SFHA.
- Staff concludes that this criterion has been met.

iii. Access and Road Authority Standards. All lots and parcels conform to the standards or requirements of Section 150: Development Standards for Land Divisions and all applicable road authority requirements are met. If a lot is nonconforming to any road authority standard, it shall not be made less conforming by the property line adjustment.

Findings:

- Section 150 is referenced in this report in the discussion of Land Division Ordinance (LDO) Section 70 and Section 160 of this report.

4. Section 160: Street Improvements.

The design, improvement, and construction of all roads and streets resulting from the division of land shall comply with the following standards and requirements, to the extent possible given topography, aesthetics, safety, or other design considerations.

Findings: There are no proposed changes to access or existing roadway systems in the development, other than proposed turnarounds at the terminus of Venora Street and Thalassa Drive (Exhibit B).

Applicant stated the only additional improvement is two turnarounds, consistent with the 2019 Oregon Fire Code Appendix D. The first at the terminus of Venora Street to serve Lots 47 and 48 and the second at the terminus of Thalassa Drive to serve Lots 13a and 13b (Exhibit B). Details regarding these turnaround locations are included in the application (Exhibit B). Director Laity details that there is an ongoing failure along the existing lower road that is likely due to drainage. Director Laity also provides that the turnaround adjacent to Proposed Lot 13-B does not demonstrate if a necessary retaining wall can be constructed within the platted area (Exhibit C).

Stormwater management, drainage and grading plans are also subject to review and final approval by the Tillamook County Public Works Department at the time of construction plan review. A recommended Condition of Approval has been made to reflect requirements established by the Tillamook County Public Works.

V. PUBLIC TESTIMONY:

Comments received to date include statements from the Tillamook County Public Works (TCPW), Nestucca Rural Fire Protection District, Oregon Department of State Lands (DSL), the Sahhali Shores of Neskowin COA, and residents of nearby properties (Exhibit C). Comments received included findings such as:

- Concerns of the exchange of Open Space location to steep slopes, which become difficult for persons to enjoy.
- Concerns that character of the area will be disrupted by allowing for detached single-family dwelling structures, rather than attached single-family dwelling designs.

851-22-000003-PLNG Page 12

VI. RECOMMENDED CONDITIONS OF APPROVAL FOR "SAHHALI SOUTH REPLAT" PRELIMINARY PLAT & CONDITIONAL USE REQUEST

Sections 6.070: COMPLIANCE WITH CONDITIONS, AND 6.080: TIME LIMIT require compliance with approved plans and conditions of this decision, and all other ordinance provisions, and allows 24 months for compliance with conditions and start of construction. Failure to comply with the conditions of approval and ordinance provisions could result in nullification of this approval.

Tillamook County Land Division Ordinance Section 090 requires the applicant to file a Final Plat within 24 months of approval of the Preliminary Plat, unless an extension is granted as provided by Section 040. A request for an extension must be submitted prior to the expiration of 24 months.

- 1. The applicant/owner shall conform to all Federal, State and local regulations, and shall obtain all required permits prior to construction and/or development.
- 2. All taxes owed shall be paid in full prior to recording of the final plat.
- 3. All areas designated as open space, common area, wetlands, or the areas designated for development shall not be further subdivided for development purposes.
- 4. A letter of final approval is required from the Neskowin Water District and the onsite community system, confirming all facility improvements have been satisfactorily constructed prior to Final Plat approval. Letters of water and sewer availability are required for the development of individual lots and shall be submitted to Community Development at the time of zoning permit submittal.
- 5. Setbacks for individual lot development shall be as follows:

Lot #	Attached Setbacks (Front, Side, Side attached, Rear) Measured in feet	Detached Setbacks (Front, Street Side, Side, Rear) Measured in feet
A1, A2, 14-19	20, 10, 0, 10	20, 15, 5, 10
13a, 13b, 46, 47, 48		20, 15, 5, 10

- 6. Development of each lot shall otherwise conform to the development standards outlined in TCLUO Section 3.320 Neskowin Rural Residential (NeskRR) zone as applicable.
- 7. Site specific Geologic Hazard Reports are required for the development of each lot (13a, 13b, 14-19, 46, 47, 48, Lot A-1, Lot A-2) in accordance with TCLUO Section 4.130: Development Requirements for Geologic Hazard Areas.
- 8. The applicant/property owner shall meet the requirements set forth by the Nestucca Rural Fire Protection District.
- 9. The applicant/owner shall submit a letter of final approval from the Tillamook County Public Works Department confirming all facility improvements have been inspected and satisfactorily constructed is required for Final Plat approval.
- 10. Development in the FEMA Special Flood Hazard Area (SFHA) shall be in accordance with the Flood Hazard Overlay zone, TCLUO Section 3.510.
- 11. Any modifications made to the preliminary plat, prior to final plat approval, shall require approval from the Tillamook County Planning Commission for those adjustments.

VII. <u>EXHIBITS</u>

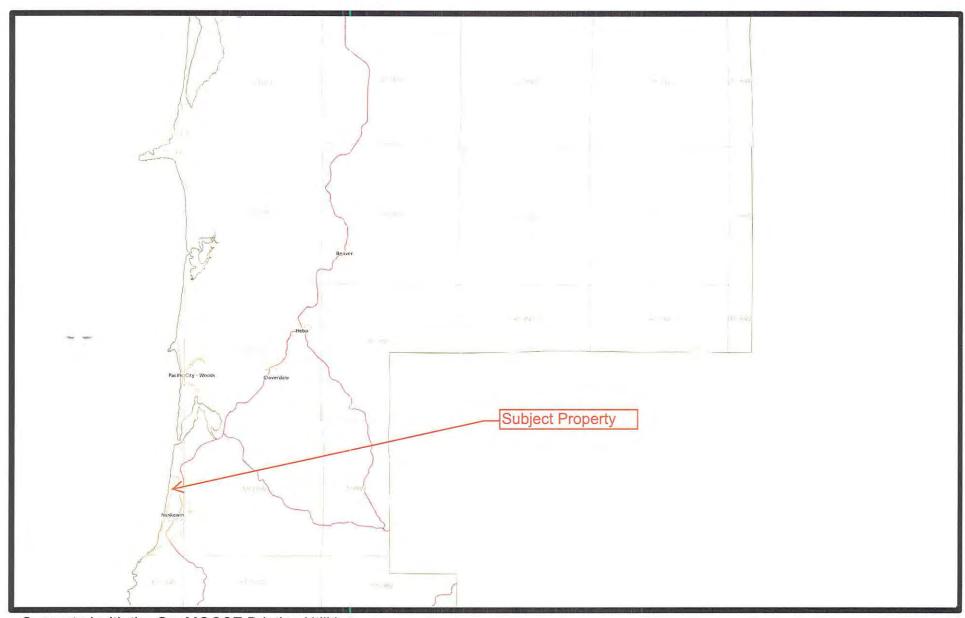
- A. Assessor and Location Maps
- B. Subdivision Application, Preliminary Plat, and Supplemental Information
- C. Public Comments

851-22-000003-PLNG Page 14

EXHIBITA

Vicinity Map

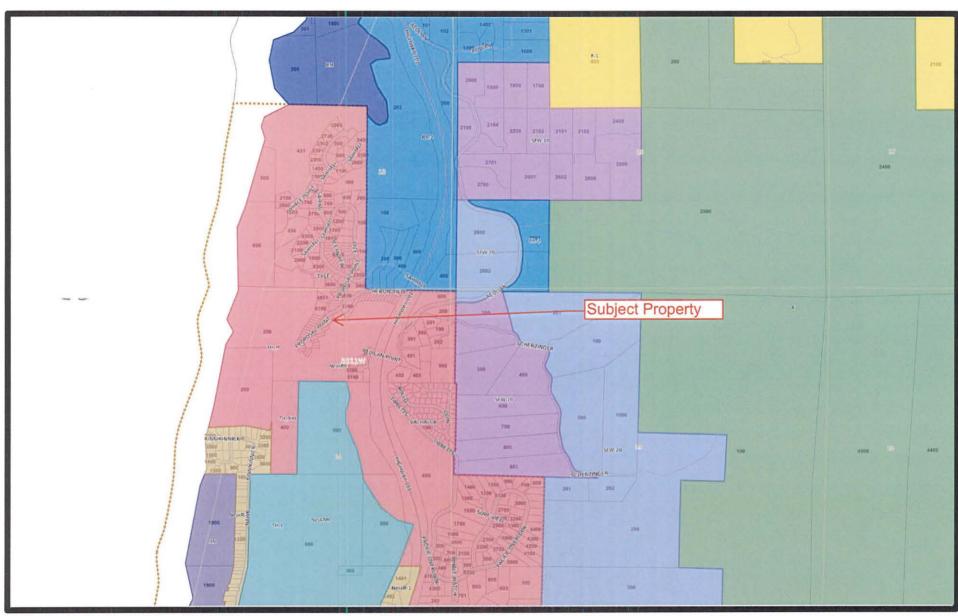




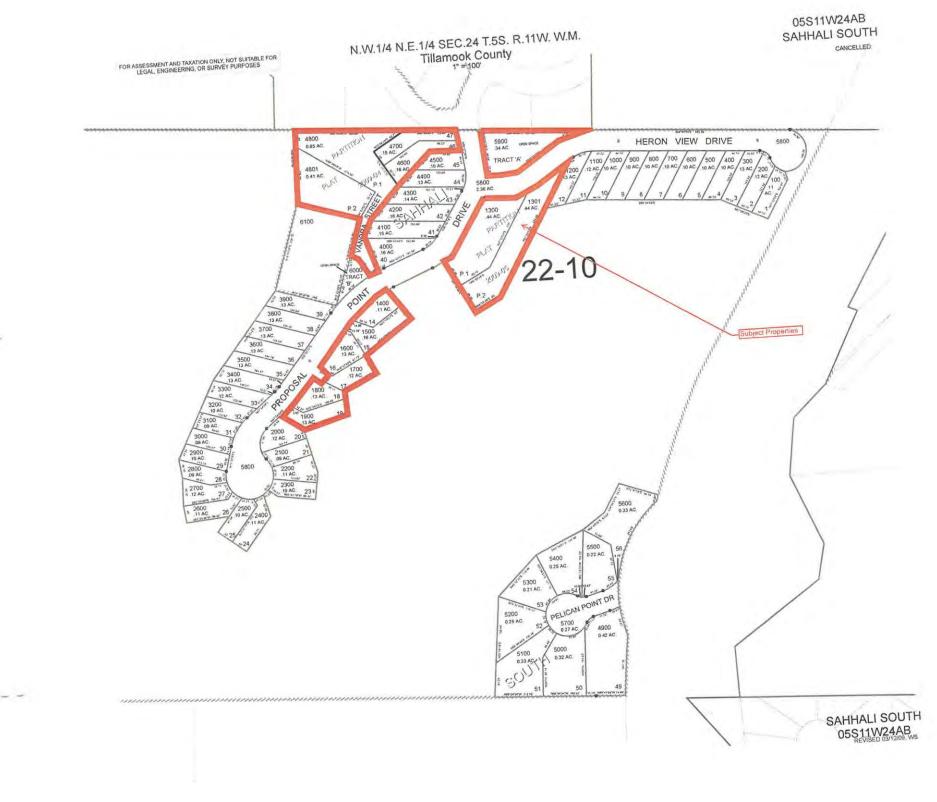
Generated with the GeoMOOSE Printing Utilities

Zoning Map



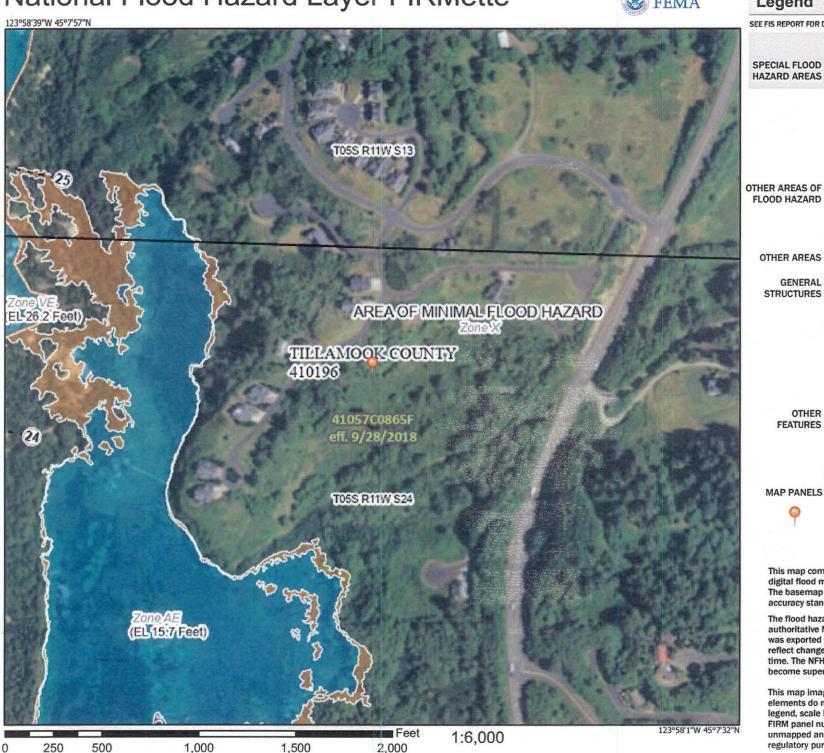


Generated with the GeoMOOSE Printing Utilities



National Flood Hazard Layer FIRMette





Legend

SEE FIS REPORT FOR DETAILED LEGEND AND INDEX MAP FOR FIRM PANEL LAYOUT

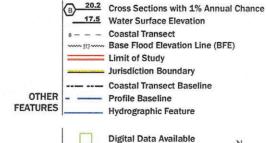
Without Base Flood Elevation (BFE)

Area with Flood Risk due to Levee Zone D





NO SCREEN Area of Minimal Flood Hazard Zone X **Effective LOMRs**



No Digital Data Available

Unmapped

MAP PANELS

The pin displayed on the map is an approximate point selected by the user and does not represe an authoritative property location.

This map complies with FEMA's standards for the use of digital flood maps if it is not void as described below. The basemap shown complies with FEMA's basemap accuracy standards

The flood hazard information is derived directly from the authoritative NFHL web services provided by FEMA. This map was exported on 1/26/2022 at 3:40 PM and does not reflect changes or amendments subsequent to this date and time. The NFHL and effective information may change or become superseded by new data over time.

This map image is void if the one or more of the following map elements do not appear; basemap imagery, flood zone labels, legend, scale bar, map creation date, community identifiers, FIRM panel number, and FIRM effective date. Map images for unmapped and unmodernized areas cannot be used for regulatory purposes.

U.S. Fish and Wildlife Service **National Wetlands Inventory**

Sahhali South



January 26, 2022

Wetlands

Estuarine and Marine Deepwater

Estuarine and Marine Wetland

Freshwater Emergent Wetland

Freshwater Forested/Shrub Wetland

Freshwater Pond

Lake

Other

Riverine

This map is for general reference only. The US Fish and Wildlife Service is not responsible for the accuracy or currentness of the base data shown on this map. All wetlands related data should be used in accordance with the layer metadata found on the Wetlands Mapper web site.

EXHIBIT B

APPLICANTS ORIGINAL SUBMITTAL



Tillamook County Department of Community Development 1510-B Third Street. Tillamook, OR 97141 | Tel: 503-842-3408

Fax: 503-842-1819

Date Stamp

OFFICE USE ONLY

www.co.tillamook.or.us

LAND DIVISION APPLICATION

Applicant □ (Check Box if Same as Property Owner) Name: Richard Boyles Phone: (541)-284-0513		
	2007	☐ Approved ☐ Denied
te: or	Zip: 97477	Received by:
191,961	- P. P. S. S. S.	Receipt #:
		Fees:
		Permit No:
one: (541) 284	-0613	851- <u>22 -000003</u> -PLNG
		75 25 75 75 75 75 75 75 75 75 75 75 75 75 75
te: OR	Zip: 97477	
		-
A, Lots 13	a, 13b, 14-19, 46, 4	7, 48a and 48b
Range		Section Tax Lot(s)
lat (Pages 1-	2) 🗆 Final Pla	sion (Four or More Lots, Type III) at (Page 3)
		Fifteen (15) legible "to
		scale" hard copies g as
"Prelimi Name aidevelop	nary Plat" and date of pre ad addresses of owner(s), er, and engineer or survey	eparation
■ Ground	elevations shown by	Other information:
contour lines at 2-foot vertical interval. Such ground elevations shall be related to some established benchmark or other datum approved by the County Surveyor The location and elevation of the closest benchmark(s) within or adjacent to the site. If water mains re not on site, show he nearest one and how rought to standards I existing subsurface tems, including d associated easements Contour lines at 2-foot vertical interval. Such ground elevations shall be related to some established benchmark or other datum approved by the County Surveyor. The location and elevation of the closest benchmark(s) within or adjacent to the site. Natural features such as drainage ways, rock outcroppings, aquifer recharge areas, wetlands, marshes, beaches, dunes and tide flats. For any plat that is 5 acres or larger, the Base Flood Elevation, per FEMA Flood Insurance Rate Maps		Thomas Karling Land
		Hazard Analysis by
		qualified professional
		Applicable Criteria
		er,
1	te: OR te: OR te: OR A, Lots 13a Range or Three Lo lat (Pages 1-2 Genera Parcel zo Title Bloo Clear ide "Prelimir Name ar develope Existin Ground e contour interval. shall be i benchma approved The locat closest b adjacent Natural f ways, rour recharge beaches, For any p the Base Flood Ins	te: OR Zip: 97477 Done: (541) 284-0613 te: OR Zip: 97477 A, Lots 13a, 13b, 14-19, 46, 4 Range Dor Three Lots, Type II) Subdivisible (Pages 1-2) Final Pl General Information Parcel zoning and overlays Title Block Clear identification of the drawin "Preliminary Plat" and date of pre Name and addresses of owner(s), developer, and engineer or surve Existing Conditions Name and addresses of owner(s), developer, and engineer or surve Existing Conditions Ground elevations shown by contour lines at 2-foot vertical interval. Such ground elevations shall be related to some establish benchmark or other datum approved by the County Surveyor The location and elevation of the closest benchmark(s) within or adjacent to the site Natural features such as drainage ways, rock outcroppings, aquifer recharge areas, wetlands, marshe beaches, dunes and tide flats For any plat that is 5 acres or larg the Base Flood Elevation, per FEM

- Proposed lots, streets, tracts, open space and park land (if any); location, names, right-of-way dimensions, approximate radius of street curves; and approximate finished street center line grades. All streets and tracts that are being held for private use and all reservations and restrictions relating to private tracts identified
- Location, width and purpose of all proposed easements
- Proposed deed restrictions, if any, in outline form
- Approximate dimensions, area calculation (in square feet), and identification numbers for all proposed lots and tracts

Proposed Development

- Proposed uses of the property, including all areas proposed to be dedicated as public right-of-way or reserved as open space
- On slopes exceeding an average grade of 10%, as shown on a submitted topographic survey, the preliminary location of development on lots demonstrating that future development can meet minimum required setbacks and applicable engineering design standards
- Preliminary utility plans for sewer, water and storm drainage when these utilities are to be provided

- The approximate location and identity of other utilities, including the locations of street lighting fixtures, as applicable
- Evidence of compliance with applicable overlay zones, including but not limited to the Flood Hazard Overlay (FH) zone
- Evidence of contact with the applicable road authority for proposed new street connections
- Certificates or letters from utility companies or districts stating that they are capable of providing service to the proposed development

	Additional	Information	Required	for	Subdivisions
--	------------	-------------	----------	-----	--------------

 Preliminary street layout of undivided portion of lot Profiles of proposed drainage ways ☐ Special studies of areas which appear to be hazardous ☐ In areas subject to flooding, materials shall be due to local geologic conditions submitted to demonstrate that the requirements of ☐ Where the plat includes natural features subject to the the Flood Hazard Overlay (FHO) zone of the County's Land Use Ordinance will be met conditions or requirements contained in the County's ☐ If lot areas are to be graded, a plan showing the Land Use Ordinance, materials shall be provided to demonstrate that those conditions and/or nature of cuts and fills, and information on the requirements can be met character of the soil ☐ Approximate center line profiles of streets, including Proposed method of financing the construction of extensions for a reasonable distance beyond the limits common improvements such as street, drainage of the proposed Subdivision, showing the proposed ways, sewer lines and water supply lines finished grades and the nature and extent of construction

Land Division Permit Application

3341/5031055401		
Applicant Signatur § 3977 ED316E2461		11/24/2021 Date
Sahhali South, LL an Oregon limited li By: Sycan B Corp., Its Managing Memb Property Corperation by: Its President	ability company an Oregon corporation er	11/24/2021 Date
information submitted with this application.		
The applicant verifies that the information submitt	ed is complete, accurate	, and consistent with other
except as required otherwise for the filing of a plat t	o lawfully establish an un	lawfully created unit of land.
review and approval, all final plats for land division		
responsible for obtaining any other necessary federa	A CONTRACTOR OF THE PROPERTY O	
Authorization This permit application does not assure permit application.	aroval. The applicant and	or property owner shall be
The state of the s		
any purpose, public or private, so as to be distinguishable from lots intended for sale		
\square Identification of land parcels to be dedicated for		
☐ The area, to the nearest hundredth of an acre, of each lot which is larger than one acre		
☐ Lot numbers	-	
☐ Block numbers		
☐ Block and lot boundary lines, their bearings and lengths		
right-of-way drainage		
☐ Provisions for access to and maintenance of off-		
☐ Easements shall be denoted by fine dotted lines, and clearly identified as to their purpose		
ways, easements, and any other rights-of-way	-	
to the plat by distances and bearings, and referenced to a document of record Exact location and width of all streets, pedestrian		-
$\hfill \square$ Monuments of existing surveys identified, related	☐ Additional Information):
☐ The names and signatures of all interest holders in the land being platted, and the surveyor	☐ Engineering/Survey	
Description of the plat perimeter	☐ Dedication for public u	se 🗆 Public Works
railroads contiguous to the plat perimeter	☐ Title interest & consen	t 🗆 Water
☐ FINAL PLAT (LDO 090(1)) ☐ Date, scale, north arrow, legend, highways, and	Certificates:	
☐ FINAL BLAT (LDQ 200/4)\		

Rev. 9/11/15

Page 3



Tillamook County Department of Community Development 1510-B Third Street. Tillamook, OR 97141 | Tel: 503-842-3408 Fax: 503-842-1819 www.co.tillamook.or.us

PLANNING APPLICATION

PLANNING APPL	ICATION		E USE ONLY
PLANNING AFFE	ICATION	Date Stamp	
Applicant □ (Check Box if Same as Proj	perty Owner)		
	: (541) 284-0613		
Address: 840 Beltline Rd. Ste. 202.	. (0.11)201.001.0	Ga	2=1(1
	OR Zip:97477	CVV	641
	JR 21p.91411	□Approv	
Email: rboyles@meretehotels.com		Received	by: Nut
Property Owner		Receipt #:	
Name: Sahhali South, LLC Phone	:(541) 284-0613	Fees:	
Address:840 Beltline Rd. Ste. 202.		Permit No	
City: Springfield State:	OR Zip:97477	851-21-	000003-PLNG-07
	51V ==P.07-177		
Email:rboyles@meretehotels.com			
(2) Property Line Adjustment Replat (4) Lots (4) Replat Partition Lots 13a and 13b into (2 Amend CCRs Section 10.13, Addendum to N	Lots and (1) Open Space Tract.	(5) Adopt Con	sistent Setbacks,
Type II	Type III	Type IV	
☐ Farm/Forest Review	☐ Appeal of Director's Decision	-71	
☑ Conditional Use Review	☐ Extension of Time	☐ Appeal of	Planning Commission
□ Variance	☐ Detailed Hazard Report	Decision	
☐ Exception to Resource or Riparian Setback	☐ Conditional Use (As deemed	☐ Ordinance	e Amendment
☐ Nonconforming Review (Major or Minor)	by Director)		le Zoning Map
☐ Development Permit Review for Estuary	Ordinance Amendment	Amendme	
Development	☐ Map Amendment	☐ Plan and/	
☐ Non-farm dwelling in Farm Zone	☐ Goal Exception	Amendme	ent
☐ Foredune Grading Permit Review			
☐ Neskowin Coastal Hazards Area			
Location:		17 10 10	
Site Address: Sahhali South, Tract A, Lot 13	3a, 13b, 14, 15, 16, 17, 18, 19, 46	, 47, 48a, 48b.	·
Map Number: 5S 11W 24AB Township Rang		ection	Tax Lot(s)
		ection	Tax LOC(3)
Clerk's Instrument #:		_	
Authorization			
This permit application does not assure permit			
obtaining any other necessary federal, state, ar	nd local permits. The applicant verific	s that the infor	mation submitted is
complete, accurate, and consistent with other	information submitted with this appl	ication.	
Ray	Sahhali South, LLC an Oregon limited liability com		11/24/2021
Prospyred (Signed Spequired)	By: Sycan B Corp., an Oregon	corporation	Date
Bal	Its Managing Member By: Richard D. Boyles	The second second	11/24/2021
Applicant Signature ED316E2461	Its President	-	Date
939//EU310E2401			7000,794
4			
Land Use Application Rev. 2/2	2/17		Page 1
Latin Court ipplication	-,		100



SAHHALI SOUTH PLANNED DEVELOPMENT

Replat Amendment Application

Application Narrative Findings of Fact

December 1, 2021

Prepared By:

Plan Development, LLC

For Declarant: Richard Boyles. Record Owner: Sahhali South, LLC. Amend Master Plan, CCR Setbacks, Partition Tract A, Replat Lots 13a, 13b, 14-19, 46-48b.

TABLE OF CONTENTS	Page
Contractor Contact Information	2
Applicable Criteria Addressed in this Application	
List of Record Decision Documents	3
List of New Documents	3
List of Zoning Ordinance, Land Division Ordinance, and Comprehensive Plan Criteria	4
Application Requests: Amendment to the Sahhali South Master Plan	
Statement of Intent: Application Goals 1 - 6	5
Goal 1 Figure 1. Replat Property Line Adjustment Lots 14-19.	6
Goal 2 Figure 2. Replat Property Line Adjustment Lots 46, 47, 48	7-9
Goal 3 Figure 3. Tract A Partition to create Lot A-1 and Lot A-2.	10
Goal 4 Figure 4. Replat Partition to create Lots 13a, 13b, Open Space Tract A.	11
Goal 5 Master Plan and CCR Section 10.13 Amendment Language: Setbacks.	12
Goal 6 Master Plan Amendment Language: Detached Single Family Dwellings.	13
Master Plan Amendment	15-18
Master Plan Update with a Narrative Detailing the 2005, 2007, and 2021 Decisions	
And providing a Summary Statement of Consistency with Applicable Criteria	
Statement of Consistency with Applicable Criteria	19-28
Application Criteria Addressed by the Request	29 – 58

Declarant: Richard Boyles, Sahhali South LLC.

Contractor Information:

Goal	Contractor	Roles in each Goal:
1-6	<u>Planner</u> :	Application Preparation; Findings of Fact
1-6	Civil Engineer:	Tentative Plan Design, Hazard Analysis.
1-6	Geologist (CEG):	Hazard Analysis. Plan Review.
1-5	Surveyor:	Plats. Legal Descriptions. Monuments.

<u>Project Planner</u>: Plan Development, LLC.

Cell Phone: (503) 440-3015. Plandevelopmentllc@gmail.com.

Planner: Project Goals 1-9:

Application Preparation and Submittal Coordination. Author, Findings of Fact and Statement of

Consistency with Applicable Criteria.

Civil Engineer: Jason Morgan, PE, Morgan Civil Engineering, Inc.

Cell Phone: (503) 801-6016. Jason@morgancivil.com.

PO Box 358. Manzanita, OR 97130.

Application Goals 1 - 6.

Replat Design. Hazard Analysis.

Certified Engineering Geologist: R. Warren Krager, CEG.

Cell Phone: (360) 903-4861. warrrenkrager@gmail.com.

Application Goals 1 - 6.

Hazard Analysis Hazard Analysis of proposed design, setbacks, and land uses. Plan Review.

<u>Professional Land Surveyor</u>: Jack L. White, III.

Cell Phone: (503) 683-7872. jack.white@sflands.com.

Application Goals 1 - 5.

Preliminary Plat. Final Plat. Legal Descriptions. Monuments.

<u>Community Septic Manager</u>: John L. Smits, REHS. Smits & Associates, Inc.

Cell Phone: (541) 537-0392. 990 Newport Avenue. Imbler, OR 97841-9706.

john.smits.associates@gmail.com

Declarant: Richard Boyles, Sahhali South LLC. Narrative Date: December 1, 2021; Plan Development, LLC.

Applicable Criteria Addressed in this Application:

Record Decision Documents:

Tillamook County Planning Commission Decisions

- Conditional Use 05-03 for 56-Lot Sahhali South Planned Development Subdivision 05-13
- Conditional Use 07-13 to Amend Sahhali South to allow Partition of Lot 13 and Lot 48.
- Partition 2009-04 to Partition Lot 13 into Lots 13a and 13b. Survey Record P-937.
- Partition 2009-05 to Partition Lot 48 into Lots 48a and 48b. Survey Record P-936.

Record Decision Documents:

- Geologic Assessment Report. February 9, 2005. GH 05-11.
- Construction As-Builts. (2007) Lots 1 56.
- Construction Plans. (2008) Lots 13a, 13b, 48a, 48b.
- Wetland Delineation Report. DSL Concurrence.
- Certification of Water Capacity to Serve Development.
- Community Septic System Permit to Serve the Development #102860.
 Drain Fields on 5S 10W 19B Tax Lots 800 and 801.

Tillamook County Survey Records

- Survey Record C-552. Sahhali South Lots 1 56. PUD 05-13, CU 05-03, GH 05-11.
- Partition Record P-936. Partition 2009-04. Replat Sahhali South Lot 13 to 13a and 13b.
- Partition Record P-937. Partition 2009-05. Replat Sahhali South Lot 48 to 48a and 48b.

Tillamook County Assessor Records

- County Assessor Map 5S 11W 24AB
- Tax Lots 5000, 1300, 1301, 1400, 1500, 1600, 1700, 1800, 1900, 4600, 4700, 4800, 4801.
- Amend Sahhali South CCRs Recorded February 15, 2007. Instrument 2007-001308.

Agency Regulatory Documents:

- National Wetland Inventory Map. No Wetlands within subject Lot Boundaries.
- 2018 FEMA Flood Insurance Rate Map. No Flood Zone within subject Lot Boundaries.

New Documents:

• Application Narrative: Six Application Goals to Amend Sahhali South PD.

• Goals 1-4 Replat and Partitions: Civil Engineer Designs.

• Goal 5 Consistent Setbacks: Master Plan and CCRs Amendment Text.

Goal 6 Attached Dwellings: Master Plan Amendment Text.

Proposed Findings of Fact: Consistency with Applicable Criteria.

<u>Documents Planned as Condition of Tentative Plan Approval:</u>

- * Hazard Analysis Report supporting the replat request.
- * Replat Survey by Licensed Professional Surveyor.

Declarant: Richard Boyles, Sahhali South LLC. Narrative Date: December 1, 2021; Plan Development, LLC. Amend Master Plan, CCR Setbacks, Partition Tract A, Replat Lots 13a, 13b, 14-19, 46-48b.

Findings of Fact Address Consistency with:

Tillamook County Zoning Ordinance

Section 3.320 Neskowin RR Zone Section 3.520 Planned Development

Section 4.130 Development Requirements for Geologic Hazard Analysis

Article 6 **Conditional Uses**

Development Approval Procedures Article 10

Tillamook County Land Division Ordinance

Section 030: General Provisions.

Section 040: Preliminary Plat Approval Process.

Section 060: Preliminary Plat Submission Requirements.

Section 070: Preliminary Plat Approval Criteria. Section 120: Re-Platting and Vacation of Plats.

Section 130: Property Line Adjustments. Section 140: Improvement Procedures.

Section 150: Development Standards for Land Divisions.

Tillamook County Comprehensive Plan

Goal 1 The Planning Process

Goal 2 The Land Use Plan

Goal 5 Natural Resources

Goal 6 Air, Water & Land Resources Quality

Goal 7 Natural Hazards

Goal 8 Recreation

Goal 9 Population and Economy

Goal 10 Housing

Goal 11 Public Facilities

Goal 12 Transportation

Goal 13 Energy Conservation

Declarant: Richard Boyles, Sahhali South LLC.

Page 4 of 58 Narrative Date: December 1, 2021; Plan Development, LLC.

STATEMENT OF INTENT

On behalf of the Declarant, Richard Boyles, Sabrina Pearson, Consultant for Plan Development, LLC, prepared an Application to Replat and Amend to the Sahhali South Planned Development Subdivision. This request involves 13 vacant lots controlled entirely by the Declarant.

The Declarant received initial approval for the Sahhali South Planned Development on July 28, 2005, with three Planning Commission Decisions: (1) CUP 2005-03 Approving a Conditional Use Application; (2) GH 2005-11 Approving a Geologic Hazard Report, dated February 9, 2005, and (3) PD 05-13 Approving the 56-Lot Sahhali South Planned Development Subdivision.

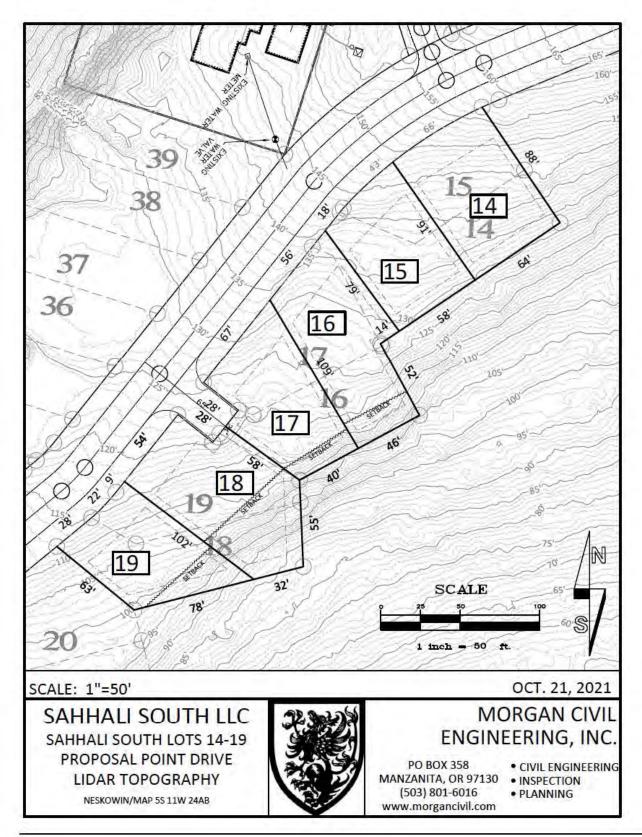
On December 13, 2007, in Decision 07-13, the Planning Commission Approved an Amendment to Sahhali South Planned Development Subdivision Master Plan to add two lots through the Partition of Lot 13 into Lots 13a and 13b, and Lot 48 into Lots 48a and 48b.

Adopt as an Addendum these Six (6) Application Goals to support development of 13 Lots and add one (1) net additional lot. A Hazard Analysis and Preliminary Plat are provided*.

- 1. <u>A Property Line Adjustment: Replat of Lots 14-19</u> (6 lots) into regular shapes oriented toward Proposal Point Drive to enhance design options consistent with the Sahhali South design aesthetic. Existing narrow lots add undesirable design complexities.
- A Property Line Adjustment: Replat (4) of Lots: 46, 47, 48a 48b, to (3) Lots: 46, 47, 48 to: Recreate Lot 46 as the east portion of Lots 46, 47 with Proposal Point Drive access. Recreate Lot 47 as the west portion of Lots 46, 47 with Venora Street access. Combine Lot 48a and 48b with Venora Street access Maintain Venora Street Access density.
- **3.** Partition Tract A: Open Space into (2) Lots to create two development lots with Ocean View potential. Open Space will be replaced in Goal 4 Lot 13a-13b the Replat Request.
- **4.** Replat Partition Lots 13a and 13b into two (2) Lots and (1) Open Space Tract A: to provide suitable building lots and to protect steep slopes from private development.
- 5. Consistent Setbacks: Master Plan and CCR Section 10.13 Amendment Language to provide for consistent setback requirements throughout the development: "For attached two-unit single family dwellings, interior side yard setbacks shall be 10 feet one side and zero feet on the shared lot line. For detached single family dwellings, interior side yard setbacks shall be 5 feet. Street side yard setbacks shall be 15 feet, front yard setbacks shall be 20 feet, and rear yard setbacks shall be 10 feet. Setbacks shall be increased where recommended by a qualified hazard analysis professional. The Architectural Review Board may approve a proposal that does not comply with these setback requirements pursuant to CCR Section 11 Architectural Review Board."
- 6. <u>Allowed Land Uses</u>: <u>Master Plan Amendment Language</u>:
 Consistent with the recorded Sahhali South CCRs: "Pursuant to CCR Section 11
 Architectural Review Board, each lot shall be eligible for placement of one attached or detached single family dwelling and a private garage or carport where consistent with Applicable Criteria and the Sahhali South Planned Development decisions."

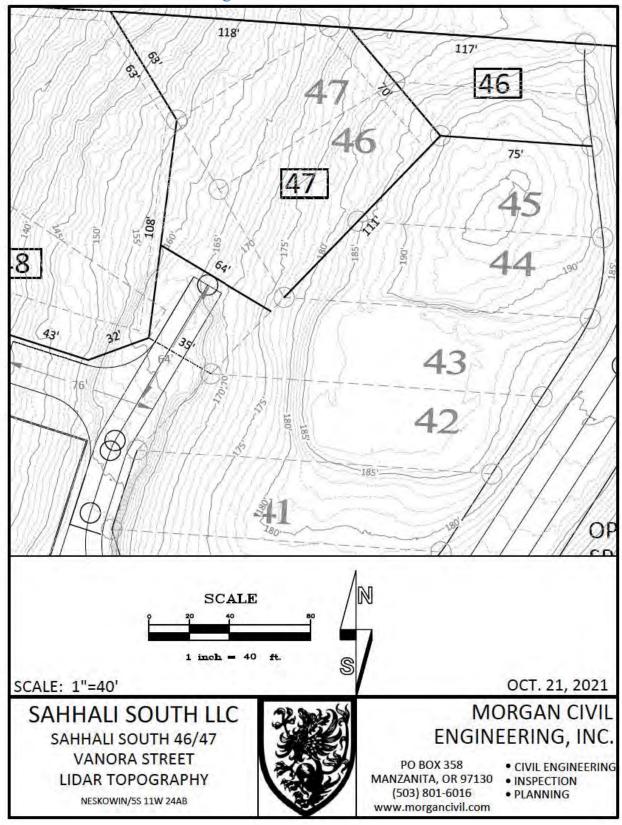
Narrative Date: December 1, 2021; Plan Development, LLC.

APPLICATION GOAL 1: Figure 1.



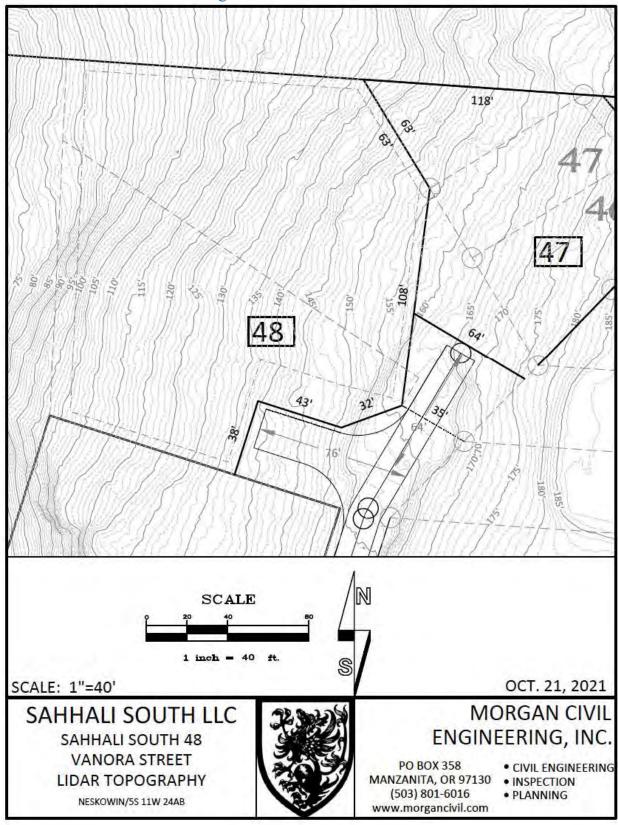
Declarant: Richard Boyles, Sahhali South LLC.

APPLICATION GOAL 2: Figure 1 of 2.



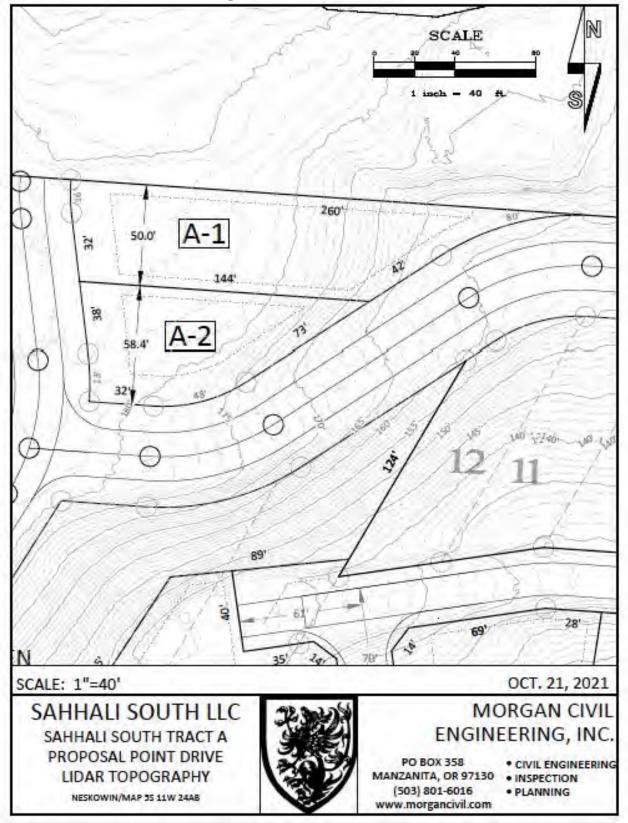
Declarant: Richard Boyles, Sahhali South LLC.

APPLICATION GOAL 2: Figure 1 of 2.



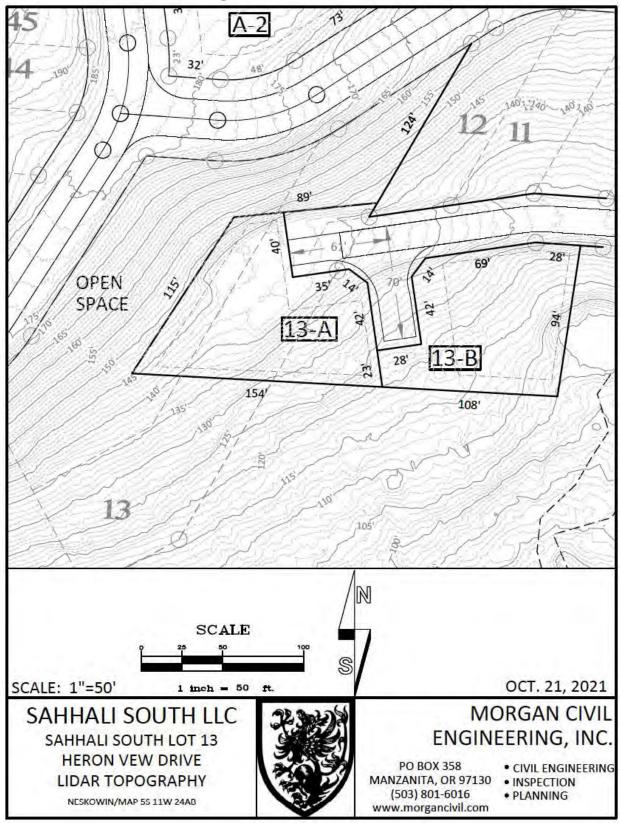
Declarant: Richard Boyles, Sahhali South LLC.

APPLICATION GOAL 3: Figure 3.



Declarant: Richard Boyles, Sahhali South LLC.

APPLICATION GOAL 4: Figure 4.



Declarant: Richard Boyles, Sahhali South LLC.

APPLICATION GOAL 5: CONSISTENT SETBACKS

Narrative Explanation

Amend Recorded CCRs and adopt a Master Plan Addendum (2) to support consistent setbacks. Currently, net side yard setbacks for attached dwellings are 10 feet of the lot width, while net side yard setbacks for detached dwellings are 30 feet of the lot width. Amendment is proposed to add Addendum Language to the Sahhali South Master Plan and to replace CCR Section 10.13.

Recorded CCRs with Addendums, August 2, 2011, Section 10.13 states that:

"Except for attached living units permitted under Section 10.3.1., no building or fencing shall be located closer than 15 feet to an interior lot line. Except for attached living units permitted under Section 10.3.1, eaves, steps, open porches, and balconies shall not be permitted to extend closer than 10 feet to an interior lot line. The Architectural Review Board map approve a proposal that does not comply with these requirements pursuant to CCR Section 11."

Sahhali South Master Plan, approved July 28, 2005, states:

"For attached structures, side yard setbacks would be 10 feet one side and zero feet on the shared lot line."

Proposed Amendments

<u>Proposed Sahhali South Master Plan Addendum (5 of 6)</u>:

"For attached two-unit single family dwellings, interior side yard setbacks shall be 10 feet one side and zero feet on the shared lot line. For detached single family dwellings, interior side yard setbacks shall be 5 feet. Street side yard setbacks shall be 15 feet, front yard setbacks shall be 20 feet, and rear yard setbacks shall be 10 feet. Setbacks shall be increased where recommended by a qualified hazard analysis professional. The Architectural Review Board may approve a proposal that does not comply with these setback requirements pursuant to CCR Section 11 Architectural Review Board."

Proposed Amendment to Recorded CCR Section 10.13:

Replace Section 10.13 language cited above with the following:

"For attached two-unit single family dwellings, interior side yard setbacks shall be 10 feet one side and zero feet on the shared lot line. For detached single family dwellings, interior side yard setbacks shall be 5 feet. Street side yard setbacks shall be 15 feet, front yard setbacks shall be 20 feet, and rear yard setbacks shall be 10 feet. Setbacks shall be increased where recommended by a qualified hazard analysis professional. The Architectural Review Board may approve a proposal that does not comply with these setback requirements pursuant to CCR Section 11 Architectural Review Board."

APPLICATION GOAL 6: CLARIFY ALLOWED LAND USES

Narrative Explanation

Adopt a Sahhali Master Plan Addendum (6 of 6) to bring consistency between the Sahhali South Master Plan and the recorded CCRs.

Recorded CCRs with Addendums, August 2, 2011, Section 10.3.1 states that:

"No building shall be erected, altered, placed, or permitted to remain on a Lot other than one attached or detached single family dwelling and a private garage or carport and except as are made more restrictive by these covenants, shall be maintained in full compliance with the zoning restrictions of Tillamook County."

Proposed Amendment

Proposed Master Plan Amendment:

Consistent with the recorded Sahhali South CCRs: "Pursuant to CCR Section 11 Architectural Review Board, each lot shall be eligible for placement of one attached or detached single family dwelling and a private garage or carport where consistent with Applicable Criteria and the Sahhali South Planned Development decisions."

Sahhali South Planned Development Master Plan

Amendment: December 16, 2021

To integrate the (2005) approval, the (2007) Amendment, and this (2021) Amendment.

Property Location:

Sahhali South is a 75.3-acre site located on the west side of US Highway 101 approximately 1.5 miles north of the incorporated community of Neskowin in Tillamook County, Oregon. Of the 75.3-acre site, 29.16 acres are devoted to residential development and 56.14 acres are devoted to Open Space.

Property Description:

Sahhali South is characterized by three distinct features: a gently sloping long ridge that runs generally northeast to southeast through the center of the property, a significant marsh with wetlands that surrounds the base of the ridge to the west, south and southeast; and sand dunes and beach area between the development and the Pacific Ocean to the west.

The Sahhali South Planned Development:

The Neskowin Rural Residential (Nesk RR), allows a Planned Development as a Conditional Use. As a Planned Development, lot sizes and setbacks are established by and to accomplish the goals of the Planned Development, to preserve geographic features as Open Space. Density and land uses must be consistent with those allowed in the underlying zone. The Neskowin RR Zone allows a residential density of 2.18 dwelling units per acre, allows detached single-family dwellings, as a use permitted outright, and allows two-unit dwellings as a Conditional Use. Sahhali South is within the allowed density, and provides for outright allowed detached single-family dwellings, and attached two-unit dwellings with an approved Conditional Use Permit.

Sahhali South Administration

The recorded Conditions, Covenants, and Restrictions (CCRs) provide Declarant, Applicant Richard Boyles, sole right to apply to Amend Sahhali South Planned Development.

2005 Sahhali South Master Plan Initial Approval

In 2005, on July 28, the Tillamook County Planning Commission approved Sahhali South as a 56-Lot Planned Development Subdivision with three applications PC-05-13 Planned Development, Conditional Use Permit CU-05-03, and Geologic Hazard Report GH-05-11.

Lots are distributed between two distinct areas, and three distinct lot types. Lots 1-48 are in Area 1. Lots 49-56 are in Area 2. Area 1 Lots 1-12 and 14-47 have an average lot area of 5,180 square feet, 0.12 acres, and are initially planned for two-unit attached single family townhomes. Area 2 Lots 49-56 have an average lot area of 0.25 acres and are planned for

detached single family dwellings. Lot 13 and Lot 48 are each approximately 1 acre each and are planned for detached single family dwellings. The 2005 density is 1.92 dwelling units per acre, 88% of the maximum allowed density of 2.18 dwelling units per acre.

2007 Amendment to Sahhali South Planned Development

In 2007, on December 13, the Tillamook County Planning Commission approved two Partitions. Partition of Lot 13, into Lots 13a and 13b, and Lot 48, into Lots 48a and 48b. Each Parcel was allowed a detached single-family dwelling. This addition of net two development lots to 58 lots in 29.16 usable acres increased density to 1.99 dwelling units per acre, 91% of the maximum allowed density of 2.18 dwelling units per acre.

2021 Amendment to Sahhali South Planned Development

In 2021, a Replat proposes to consolidate the 2005, 2007, and 2021 Sahhali South Amendments into one updated Sahhali South Plat. The resulting density will be a net addition of one dwelling to 59 lots in 29.16 usable acres, 2.02 dwelling units per acre, 93% of the maximum allowed density of 2.18 dwelling units per acre.

The 2021 Amendment Six (6) Application Goals:

- 1. <u>A Property Line Adjustment: Replat of Lots 14-19</u> (6 lots) into regular shapes oriented toward Proposal Point Drive to enhance design options consistent with the Sahhali South design aesthetic. Existing narrow lots add undesirable design complexities.
- A Property Line Adjustment: Replat (4) of Lots: 46, 47, 48a 48b, to (3) Lots: 46, 47, 48 to: Recreate Lot 46 as the east portion of Lots 46, 47 with Proposal Point Drive access. Recreate Lot 47 as the west portion of Lots 46, 47 with Venora Street access. Combine Lot 48a and 48b with Venora Street access Maintain Venora Street Access density.
- **3.** Partition Tract A: Open Space into (2) Lots to create two development lots with Ocean View potential. Open Space will be replaced in Goal 4 Lot 13a-13b the Replat Request.
- **4.** Replat Partition Lots 13a and 13b into two (2) Lots and (1) Open Space Tract A: to provide suitable building lots and to protect steep slopes from private development.
- 5. Consistent Setbacks: Amend Master Plan and CCR Section 10.13 Setbacks: to provide for consistent setback requirements throughout the development: To read: "For attached two-unit single family dwellings, interior side yard setbacks shall be 10 feet one side and zero feet on the shared lot line. For detached single family dwellings, interior side yard setbacks shall be 5 feet. Street side yard setbacks shall be 15 feet, front yard setbacks shall be 20 feet, and rear yard setbacks shall be 10 feet. Setbacks shall be increased where recommended by a qualified hazard analysis professional. The Architectural Review Board may approve a proposal that does not comply with these setback requirements pursuant to CCR Section 11 Architectural Review Board."
- 6. Allowed Land Uses: Amend Master Plan Amendment Language

Amend Master Plan consistent with the recorded Sahhali South CCRs Section 10.3.1: to read: "Pursuant to CCR Section 10.3.1 Structures on Lots, each lot shall be eligible for placement of one attached or detached single family dwelling and a private garage or carport where consistent with Applicable Criteria and the Sahhali South Planned Development decision documents."

Geologic Hazards

In 2005, in Planning Commission Decision GH 05-11, Tillamook County approved Sahhali South Geologic Hazard Report dated February 9, 2005, as suitable to meet the requirements of Section 4.130 Development Requirements for Hazard Analysis. Geologic Hazard Report GH 05-11 recommends development specific Geologic Reports for Oceanfront Lots 28-39, 48A and 48B, and 51-52, and for lots with slopes greater than 19% as a condition of development. In addition, the Tillamook County Department of Community Development may require development specific Geologic Hazard Reports. The 2021 Sahhali South Amendment Application is designed by a Civil Engineer and do not affect the decision for GH 05-11.

Infrastructure Plans

For the 2005 Decisions, Lots 1-56, Infrastructure Construction Plans for the 2005 Decisions, are dated January 2, 2007. for 2007 Decisions, Lots 13a, 13b, 48a, 48b, Infrastructure Construction Plans, are dated June 11, 2008. For the 2021 Amendments to Lots A-1, A-2, 13a, 13b, 14-19, 46, 47, and 48, Infrastructure Construction Plans to be provided with the Final Plat are limited.

Roads

Sahhali South (2005) platted two roads that provide access from US Highway 101. Pelican Point Drive provides access to Area 2 Lots 49-56. Heron View Drive provides access to Area 1 Lots 1-49, direct access to Lots 1-13a and 13b, and access to Thalassa Drive and Proposal Point Drive. Thalassa Drive provides rear access to Lots 1-12 and level access to Lots 13a and 13b. Proposal Point provides direct access to Lots 14 – 46 as well as Lot A-1 and Lot A-2 with this application, and access to Venora Street. Venora Street provides direct access to Tax Lot 6100, Lot 47 (with this application) and Lot 48(combining Lot 48a and 48b with this application). This application transfers Venora Street from an easement to a Tract for improved collaborative management.

Sanitary Service

A Community Septic System provides sanitation for the area under Department of Environmental Quality (DEQ) Water Pollution Control Facilities Permit #102860. Drain fields are located at 5S 10W 19B Lots 800 and 801, Lat: 45.1281, Long: -123.9706. Permit #102860 received its most recent update on 8/10/2015, though the permit is the outcome response of the Land Use Compatibility signed by Tillamook County on 10/3/2005 and Application #963452 received on 9/12/2011. The updated permit update limits use to flow calculations rather than specifying a limit to the number of lots. According to the consultant working with the project, the system has adequate capacity to serve the requested development increase to 59 lots.

Water

Neskowin Regional Water District provides water. Water service is available to serve Sahhali South including the 2021 replat. The Neskowin Regional Water District will review the final plat construction plans.

Fire Protection

The Neskowin Rural Fire District provides fire protection services. The Fire Chief finds that the design of Sahhali South including the 2021 replat meets the applicable fire code. The Fire Chief will review the final plat and construction plans.

Cable

Charter Communications provides cable and internet service to the site. Charter communications finds that the design of Sahhali South including the 2021 replat meets applicable codes. Charter will review the final plat and construction plans.

Power

The Tillamook (PUD) provides electrical power to the site. PUD finds that the design of Sahhali South including the 2021 replat meets the applicable electrical codes. PUD will review the final plat and construction plans.

Telephone

Telephone lines are owned by Sprint. Sprint finds that the design of Sahhali South including the 2021 replat meets the applicable communication codes. Sprint will review the final plat and construction plans.

Public Schools

Nestucca School District, Cloverdale Elementary and Nestucca High provide school service to Sahhali South. Nestucca School District finds that they can provide service to Sahhali South including the 2021 replat.

<u>Table 1. Lot Areas, Setbacks and Allowed Uses:</u>

Lot #	Acres	Sq. Ft.	Uses	Frt. Yd	Rear Yd	Side Att./Det.	St. Side
A-1	0.21	9285	Attached/Detached	20	10	0', 10' / 5'	15
A-2	0.13	5745	Attached/Detached	20	10	0', 10' / 5'	
1	0.11	4792	Attached/Detached	20	10	0', 10' / 5'	15
2	0.12	5227	Attached/Detached	20	10	0', 10' / 5'	
3	0.13	5663	Attached/Detached	20	10	0', 10' / 5'	
4	0.10	4356	Attached/Detached	20	10	0', 10' / 5'	
5	0.10	4356	Attached/Detached	20	10	0', 10' / 5'	
6	0.10	4356	Attached/Detached	20	10	0', 10' / 5'	
7	0.10	4356	Attached/Detached	20	10	0', 10' / 5'	
8	0.10	4356	Attached/Detached	20	10	0', 10' / 5'	
9	0.10	4356	Attached/Detached	20	10	0', 10' / 5'	
10	0.10	4356	Attached/Detached	20	10	0', 10' / 5'	
11	0.12	5227	Attached/Detached	20	10	0', 10' / 5'	
12	0.13	5663	Attached/Detached	20	10	0', 10' / 5'	
13a	0.28	12007	Detached	20	10	5	
13b	0.24	10336	Detached	20	10	5	
14	0.14	4792	Attached/Detached	20	10	0', 10' / 5'	
15	0.12	5227	Attached/Detached	20	10	0', 10' / 5'	
16	0.14	4792	Attached/Detached	20	GHR	0', 10' / 5'	
17	0.12	5227	Attached/Detached	20	GHR	0', 10' / 5'	
18	0.16	6970	Attached/Detached	20	GHR	0', 10' / 5'	
19	0.11	4792	Attached/Detached	20	GHR	0', 10' / 5'	
20	0.11	4792	Attached/Detached	20	10	0', 10' / 5'	
21	0.09	3920	Attached/Detached	20	10	0', 10' / 5'	
22	0.11	4792	Attached/Detached	20	10	0', 10' / 5'	
23	0.10	4356	Attached/Detached	20	10	0', 10' / 5'	
24	0.11	4792	Attached/Detached	20	10	0', 10' / 5'	
25	0.10	4356	Attached/Detached	20	10	0', 10' / 5'	
26	0.11	4792	Attached/Detached	20	10	0', 10' / 5'	
27	0.12	5227	Attached/Detached	20	10	0', 10' / 5'	
28	0.09	3920	Attached/Detached	20	10	0', 10' / 5'	
29	0.10	4356	Attached/Detached	20	10	0', 10' / 5'	
30	0.09	3920	Attached/Detached	20	10	0', 10' / 5'	
31	0.09	3920	Attached/Detached	20	10	0', 10' / 5'	
32	0.10	4356	Attached/Detached	20	10	0', 10' / 5'	
33	0.12	5227	Attached/Detached	20	10	0', 10' / 5'	
34	0.13	5663	Attached/Detached	20	10	0', 10' / 5'	
35	0.13	5663	Attached/Detached	20	10	0', 10' / 5'	
36	0.13	5663	Attached/Detached	20	10	0', 10' / 5'	

Declarant: Richard Boyles, Sahhali South LLC.

hhali South LLC. Page 17 of 58

37	0.13	5663	Attached/Detached	20	10	0', 10' / 5'	
38	0.13	5663	Attached/Detached	20	10	0', 10' / 5'	
39	0.13	5663	Attached/Detached	20	10	0', 10' / 5'	
40	0.16	6970	Attached/Detached	20	10	0', 10' / 5'	
41	0.15	6534	Attached/Detached	20	10	0', 10' / 5'	
42	0.16	6756	Attached/Detached	20	10	0', 10' / 5'	
43	0.14	5893	Attached/Detached	20	10	0', 10' / 5'	
44	0.13	5745	Attached/Detached	20	10	0', 10' / 5'	
45	0.10	4356	Attached/Detached	20	10	0', 10' / 5'	
46	0.11	4792	Detached	20	10	0', 10' / 5'	15
47	0.37	16153	Detached	20	10	0', 10' / 5'	
48	0.76	33323	Detached	20	10	0', 10' / 5'	
49	0.42	18295	Detached	20	15	15	15
50	0.32	13939	Detached	20	15	15	
51	0.33	14375	Detached	20	15	15	
52	0.25	10890	Detached	20	15	15	
53	0.21	9148	Detached	20	15	15	
54	0.25	10890	Detached	20	15	15	
55	0.22	9583	Detached	20	15	15	
56	0.33	14375	Detached	20	15	15	15

<u>Table 2. 2021 Replat Lot Area Changes to Affected Lots as reflected in Table 1.</u>

Lot	Current Ac	Proposed Ac	Current sf	Proposed sf
Tract A	0.34	0.34	15,030	15,030
A – 1		0.21		9,285
A – 2		0.13		5,785
13a	0.44	0.28	19,166	12,007
13b	0.44	0.24	19,166	10,336
14	0.11	0.14	4,792	5,893
15	0.16	0.12	6,970	5,075
16	0.13	0.14	5,662	6,183
17	0.12	0.12	5,227	5,394
18	0.13	0.16	5,663	6,756
19	0.13	0.11	5,663	4,784
46	0.16	0.11	6,970	4,752
47	0.15	0.37	6,534	16,153
48a	0.65	See 48(a, b)	28,314	See 48(a, b)
48b	0.41	See 48(a, b)	17,860	See 48(a, b)
48(a, b)	1.06	0.76	46,174	33,323

Declarant: Richard Boyles, Sahhali South LLC.

2021 Application to Amend Sahhali South Planned Development Applicant Summary Statement of Consistency with Applicable Criteria

Tillamook County Zoning Ordinance

Section 3.320 Neskowin Rural Residential (RR) Zone

Response: Criteria met. The Neskowin Rural Residential Zone Section 3.320(3) Conditional Uses (a) allows a Planned Development and Section 3.320(3)(b) allows two-family dwellings as a Conditional Use; Section 3.320(2) Outright Permitted (a) Single family dwellings are allowed as an outright permitted use. In a Planned Development, density must be consistent with the underlying zone while dimensional standards are set by the Planned Development. Section 3.320(4)(a) establishes the underlying zone density as 2.18 dwelling units per acre.

Section 3.520 Planned Development.

A Planned Development allows uses at densities consistent with the underlying zone with dimensional standards established through the Planned Development process for the purpose of planning development that preserves natural features and amenities such as and not limited to views, water frontage, wetlands, sloping topography, geologic features, and drainage areas. Land division requests are allowed after review within the context of the approved Planned Development. Building permits can only be issued based on the Approved Planned Development. Any changes to the approved Planned Development require Planning Commission approval.

The 2021 Application to Amend the Planned Development is required to address the Land Division Ordinance and Section 3.520(3) Planned Development Procedure (a): (1) Proposed land uses, building locations, and housing unit densities; (2) Proposed circulation pattern indicating the status of street ownership; (3) Proposed open space uses; (4) Proposed grading and drainage pattern; (5) Economic justification of any commercial development; (6) Relationship of the proposed development to the surrounding area and the comprehensive plan.

<u>Section 3.520(3)(a)</u>:

(1) Proposed land uses, building locations and housing unit densities:

Response: Criteria met. With the addition of one lot, the 2021 Application increases housing unit densities from 1.99 dwelling units per acre to 2.02 dwelling units per acre, 93% of the allowed housing unit density of 2.18 dwelling units per acre. No change to the approved land uses detached and two-unit-attached single-family dwellings is proposed, although the Application clarifies that both attached and detached dwellings are allowed on Lots 1-45, A-1 and A-2, and detached dwellings are allowed on Lots 46 – 56.

(2) <u>Proposed circulation pattern indicating the status of street ownership:</u>

Response: Criteria met. The 2021 Amendment Application proposes to amend the circulation pattern that serves Lots 13a and 13b, 47 and 48. Lots 13a and 13b will be served by Thalassa Drive and include the plat of a turnaround consistent with the applicable 2019 Oregon Fire Code Appendix D. The turnaround will be constructed when either Lot 13a or 13b are developed; until then, a turnaround on Thalassa Drive is not required by the applicable fire code. Lots 47 and 48 will take access from Venora Street which will now include the plat of a turnaround consistent with the applicable 2019 Oregon Fire Code Appendix D; this is not a change to the density of lots using Venora Street, it is a change to the turnaround to meet Appendix D. The Venora Street turnaround will be constructed when either Lot 47 or 48 are developed; until then, a turnaround on Venora Street is not required by the applicable fire code.

(3) Proposed open space use:

Response: Criteria met. The 2021 Amendment Application will not change the use of dedicated Open Space as undeveloped. It does relocate the Tract A: Open Space from nearly level ground to protect the steep slopes formerly located on Lots 13a and 13b. It does relocate open space from lower slope land to more steeply sloped land formerly located on Lots 13a and 13b.

(4) Proposed grading and drainage pattern:

Response: Criteria met. The 2021 Amendment Application utilizes the same drainage pattern with simplified access for Lots 14-19 and 47. Drainage will be provided with the design of Venora Street and Thalassa Drive.

(5) Economic justification of any commercial development:

<u>Response: Criteria met</u>. The 2021 Amendment to Sahhali South does not include any commercial development.

(6) Relationship of the proposed development to the surrounding area and the comprehensive plan.

Response: Criteria met. The 2021 Amendment to Sahhali South does not change the relationship of the proposed development to the surrounding area and the comprehensive plan. Sahhali South is a Planned Development of detached and attached two-unit single-family-dwellings.

<u>North</u> of Sahhali South is Sahhali Shores at Neskowin, a 90 residential lot Planned Development Subdivision that provides for detached and attached two-unit single family dwellings.

<u>South</u> of Sahhali South are wetlands preserved as Sahhali South open space and beach access. <u>East</u> of Sahhali South, is US Highway 101 and vacant and developed parcels in the Neskowin RR Zone and RR-2 Zone.

<u>West</u> of Sahhali South is the Pacific Ocean. Application relationship to and Consistency with the Comprehensive Plan is addressed in the response to Section 6.040(2) The application is consistent with the goals and policies of the Comprehensive Plan.

Section 4.130 Development Requirements for Geologic Hazard Analysis:

Response: Criteria met. A Geologic Report prepared for Sahhali South, GH 05-11 dated February 9, 2005, addresses Section 4.130 and applies to the 2021 Amendment to Sahhali South Planned Development Subdivision. Geologic Hazard Report GH 05-11 recommends Development Specific Analysis for oceanfront lots and for lots where slope exceeds 19% anywhere on the lot, consistent with the requirements of Section 4.130(6). The County is authorized to impose additional report requirements at the time of development application. The 2021 Amendment to Sahhali South to replat Lots 14-19, Tract A: Open Space, Lots 13a and 13b, Lots 46, 47, 48a and 48b is designed by Jason Morgan, PE, Morgan Civil Engineering, a Civil Engineer with experience preparing Hazard Analysis reports for local geographic conditions.

Article 6 Conditional Uses

Because a Planned Development is a Conditional Use that requires Planning Commission approval, revision to an approved Conditional Use Permit requires Planning Commission approval. The application must address <u>Section 6.040 Review Criteria</u> to determine that:

- (1) The use is listed as a Conditional Use in the underlying zone.
- (2) The use is consistent with the goals and policies of the Comprehensive Plan.
- (3) The parcel is suitable for the proposed use considering its size, shape, location, topography, existence of improvements, and natural features.
- (4) The proposed use will not alter the character of the surrounding area in a manner which substantively limits, impairs, or prevents use of surrounding properties for the permitted uses listed in the underlying zone.
- (5) The proposed use will not have a detrimental effect on existing solar energy systems, wind energy conversion systems, or windmills.
- (6) The proposed use is timely, considering the adequacy of public facilities or services existing or planned in the area affected by the use.

Section 6.040 Review Criteria

(1) The use is listed as a Conditional Use in the underlying zone.

Response: Criteria met. The Neskowin Rural Residential Zone Section 3.320(3) Conditional Uses (a) Planned Development allows a Planned Development as a Conditional use and Section 3.320(3)(b) two-family dwellings allows two-family attached single-family-dwellings as a Conditional Use.

(2) The use is consistent with the goals and policies of the Comprehensive Plan.

<u>Response: Criteria met</u>. The Application Goals are consistent with the Goals and Policies of the Tillamook County Comprehensive Plan:

<u>Goal 1 The Planning Process:</u> Citizen involvement for this planning decision is provided through the Planning Commission.

<u>Goal 2 The Land Use Plan</u>: The proposed amendments are for uses allowed in Sahhali South and the Neskowin RR Zone.

<u>Goal 5 Natural Resources</u>: The proposed amendments will continue the Sahhali South protection of Goal 5 wetlands.

<u>Goal 6 Air, Water, & Land Resources Quality</u>: The design protects water by simplifying lot access to Stormwater Drainage facilities, protects land by continuing current County Ordinance Section 4.130 and Sahhali South Geologic Assessment Report GH 05-11 requirements for development specific geologic analysis, and has proposes no changes that would affect air quality.

<u>Goal 7 Natural Hazards</u>: Natural Hazards mitigation is ensured by the County Zoning Ordinance Section 4.130 and Sahhali South Geologic Assessment GH 05-11 requirement for development specific Geologic Hazard Reports.

<u>Goal 8 Recreation</u>: Sahhali South provides access to recreation opportunities at ocean beach from an elevated and protected beach access across the protected Sahhali South Open Space. <u>Goal 9 Population and Economy</u>: The Rural Recreation Zone provides a beneficial economic location for these homes.

<u>Goal 10 Housing</u>: The proposed amendments facilitate housing flexibility for either detached or attached two-unit single-family-dwellings commensurate with the market demand.

<u>Goal 11 Public Facilities</u>: The proposed amendments do not affect the adequate capacity of available public facilities.

<u>Goal 12 Transportation</u>: The proposed amendments improve capacity of existing streets, specifically by platting Fire Truck turnarounds consistent with the 2019 Oregon Fire Code Appendix D at the end of Venora Street and Thalassa Drive.

<u>Goal 13 Energy Conservation</u>: The proposed amendments improve energy conservation and reduce development impacts by simplifying access to stormwater drainage facilities and reducing the need to excavate steep slopes for development by transferring development rights from steep slopes to low and lower slope areas and dedicating the steep slopes to protected undeveloped open space.

(3) <u>The parcel is suitable for the proposed use considering its size, shape, location, topography, existence of improvements, and natural features.</u>

Response: Criteria met. The 2021 Amendment to Sahhali South Planned Development Subdivision is suitable for the proposed use considering its size, shape, location, topography, existence of improvements and natural features. The 2021 Amendment simplifies the design of the lots A-1, A-2, 13a, 13b, 14-19, 46-48 and uses the improvements provided by the 2005 and 2007 Sahhali South decisions with the only addition 2019 Oregon Fire Code Appendix D, consistent Fire Truck turnarounds at the end of Thalassa Drive and Venora Street.

(4) The proposed use will not alter the character of the surrounding area in a manner which substantively limits, impairs, or prevents use of surrounding properties for the permitted uses listed in the underlying zone.

Response: Criteria met. The 2021 Amendment to Sahhali South Planned Development Subdivision does not alter the character of the surrounding area in any way that substantively limits, impairs, or prevents use of surrounding properties for the permitted uses listed in the underlying zone. The 2021 Amendment to Sahhali South continues the development character

of detached and attached two-unit single-family-dwellings approved with the Sahhali South 2005 and 2007 decisions.

(5) <u>The proposed use will not have a detrimental effect on existing solar energy systems, wind energy conversion systems, or windmills.</u>

Response: Criteria met. The 2021 Amendment to Sahhali South Planned Development will not have a detrimental effect on existing solar energy systems, wind energy conversion systems, or windmills. The replatted lots locates development in substantially the same location as prior to the replat, with the exception that development is relocated from steep slopes on Lots 13a and 13b to low slopes on Tract A and low and lower slopes on Lots 13a, 13b, and Open Space adjacent to Lot 13b.

(6) The proposed use is timely, considering the adequacy of public facilities or services existing or planned in the area affected by the use.

Response: Criteria met.

Article 10 Development Approval Procedures

Section 10.020 Applications

Response: Criteria met.

Consistent with Section 10.020(1) Applications for Type III Planning Actions may be initiated by

- (a) the owner of the property that is the subject of the application; and
- (g) by the representative or agent of any of the above upon submittal of written authorization to make such application.

Applicant Richard Boyles is the Sahhali South Declarant, the only party authorized by the Recorded CCRs (2007) Section 10.1.4. Combination, Division, Status, to apply for these 2021 amendments to the Sahhali South Planned Development. Under Section 10.020(3), (a) when an applicant applies for more than one type of land use, the proceedings may be consolidated if and as has been requested by the applicant for review and decision, (b) at the highest type, Type III Planning Commission Quasi-Judicial Review, (c) with findings for each application.

Consistent with Section 10.020(6), (b) Application submittal requirements:

Application is submitted in electronic format including:

- (i) Two signed application forms for Conditional Use and Land Division. Amendment to a Planned Development is a Conditional Use. The Land Divisions include Property Line Adjustments for Lots 13a, 13b, 14-19, 46-48, Vacation of Lot Line to combine Lots 48a and 48b and Partition of Tract A.
- (ii) Payment of applicable review fees.
- (iii) Proof of ownership.
- (iv) Detailed description of all existing and proposed uses and structures, including a summary of all information included in the included civil plans.

- (v) Detailed statement that demonstrates how the proposal meets all applicable approval criteria, zoning and land use regulations, and development standards.
- (vi) Civil engineering plans prepared by a qualified civil engineer, preliminary plat, and final plat to be provided as a condition of approval.
- (vii) Information demonstrating compliance with prior decisions and conditions of approval for the subject site as applicable. The application includes electronic copies of decision documents for the original 2005 Sahhali South approval and 2007 Amendment to Sahhali South.

<u>Consistent with Section 10.030 Pre-Application Conference</u> multiple meetings have been held with the Community Development Department and applicable decision personnel to discuss design standards, improvement requirements, and procedures for the review and approval of the proposed land use actions.

<u>Consistent with Section 10.040 Review Types</u>, as a Planned Development, these consolidated applications will be reviewed by the Planning Commission as a Type III Quasi-Judicial decision.

<u>Section 10.080 Type III Procedures</u> provides procedures for Planning Commission review of these applications.

Tillamook County Land Division Ordinance

Section 060: Preliminary Plat Submission Requirements.

Response: Criteria met.

Consistent with Land Division Ordinance Section 060:

<u>Section 060(1)(a) General Preliminary Plat Requirements</u>: The application addresses Article 10 Section 10.070, Partitions.

<u>Section 060(1)(b) Preliminary Plat Information</u>: The application consists of drawings and supplementary material adequate to provide the following information:

(i) General Information:

- (2) Date, north arrow, scale of drawing.
- (3) Location of the development sufficient to define its location, boundaries, and a legal description of the site.
- (4) Zoning of parcel to be divided including any overlay zones.
- (5) A title block including the names, addresses and telephone numbers of the owners of the property, and as applicable, the name of the engineer and surveyor and the date of the survey.
- (6) include Land Division Application includes a design prepared by a Civil Engineer to support Replat preparation by the project Land Surveyor.
- (7) Name and addresses of the owner, developer, engineer, and surveyor.

- (ii) Existing Conditions: Existing conditions are described by approved Construction Plans, County Decision Documents, and Recorded Surveys that identify:
- (1) Existing streets or roads including location, names, right-of-way, and pavement widths on and abutting the site, and location of existing access points.
- (2) Width, location, and purpose of existing easements, of record and abutting the site.
- (3) Lots affected by the replat are vacant. Lots affected by the setback clarification include development that will meet the use and setback standards.
- (4) Location and identity of all utilities and abutting the site will not change. An easement will be provided from the utilities in Heron View Drive to provide for Lots 13a and 13b.
- (5) The location of the existing Community Septic System including drain fields and easements is known, not proposed to be amended; and diagrams are provided in the record.
- (6) Ground elevations are shown by contour lines at 2-foot vertical interval, provided by the Civil Engineer using Lidar as a source.
- (7) The location and elevation of the closest benchmark is provided with the recorded Subdivision Plat, C-522, Partitions P-936, and P-937.
- (8) Natural features such as drainage ways, wetlands and marshes are identified by National Wetland Inventory. No wetlands or marsh are within the affected lots.
- (9) Flood Data is provided by the FEMA Flood Insurance Rate Maps. Lots affected by the Replat are outside of the regulated Flood Hazard Overlay Zone.
- (10) North Arrow and Scale are provided.
- (11) No additional studies were required by the Tillamook County Department of Community Development.

(iii) Proposed Development. The proposed development identifies:

- (1) Proposed re-platted lots 13a, 13b, 14-19, 46-48, proposed Partition of Tract A, 13a, 13b, Proposed Vacation of Lots 48a and 48b to create Lot 48. Approximate design of street improvements to provide Fire Code Turnarounds at the terminus of Venora Street to serve Lots 47 and 48, and Thalassa Drive, to serve Lots 13a and 13b, to be installed with the first permit.
- (2) City boundary lines do not cross or adjoin the subdivision.
- (3) Easements to provide Lot 13a and Lot 13b access to utilities in Heron View Drive.
- (4) Proposed CCR amendment.
- (5) Lots and private tracts (Venora Street, Thalassa Drive) approximate dimensions, area calculation in square feet, and identification of numbers for all proposed lots and tracts.
- (6) Proposed uses of the property for detached and attached single family dwellings and open space.
- (7) On slopes exceeding an average of 10% the Civil Engineer recommends in an assessment report that development can meet proposed build area designations and the recommendations of the GH 05-11 Geologic Assessment.
- (8) Sewer, water, and storm drainage are shown on approved existing infrastructure plans.
- (9) The location and identity of other utilities, including the locations of street lighting fixtures as applicable is provided on approved existing infrastructure plans.
- (10) The Flood Insurance Rate Map (FIRM) identifies that the affected property is not located in regulated flood hazard overlay zone.

- (11) No new road connections are proposed. The applicant and representatives met with the Fire Chief and Public Works Director to discuss the street connections. The Fire Chief requested the plat of a Fire Truck Turnaround at the terminus of Venora Street, to serve Lots 47 and 48, and Thalassa Drive, to serve Lots 13a and 13b, to be installed with the first applicable permit. (12) Certificates or letters from utility companies or districts stating that they are capable of providing service to the proposed development. Oregon DEQ provided an email confirming that the community septic has adequate capacity to serve the additional lot and the proposed replat. The Neskowin Regional Water District has provided recommendation that the additional lot will not exceed capacity of water resources. The Tillamook People's Utility District has provided a letter stating that the electrical service installed in Sahhali South has capacity to serve the replat and the additional lot.
- (d) A portfolio collection of the application documents and fifteen hard copies are provided for distribution to the authorities identified in (e).

Section 070: Preliminary Plat Approval Criteria.

Response: Criteria met.

- (1) Approval Criteria: requires that:
- (a) The land division application shall conform to the requirements of this Ordinance.
- (b) All proposed lots, blocks, and proposed land uses shall conform to the applicable provisions of the Land Use Ordinance, Article 3 Zone Regulations, and the standards in Section 150 of this Ordinance.
- (c) Access to individual lots and public improvements necessary to serve the development, including but not limited to water, sewer, and streets shall conform to the standards in Section 150 of this ordinance.
- (d) The proposed plat name is not proposed to be changed.
- (e) The proposed streets, utilities, and surface water drainage facilities conform to Tillamook County's adopted master plans and applicable engineering standards and, within unincorporated community boundaries, allow for transitions to existing and potential future development on adjacent lands. The preliminary plat shall identify all proposed public improvements and dedications.
- (f) All proposed private common areas and improvements, if any, are identified on the preliminary plat and maintenance of such areas is assured through appropriate legal instrument.
- (g) Provision for access to and maintenance of off-right-of-way drainage, if any.
- (h) Evidence that any required State and Federal permits, as applicable have been obtained or can reasonably be obtained prior to development.
- (i) Evidence that improvements, or conditions required by the road authority, Tillamook County, special districts, utilities, and / or other service providers, as applicable to the project have been or can be met, including but not limited to:
 - i. Water Department / Utility District Letter which states that the partition is included within the district for purposes of receiving services and subjecting the partition or subdivision to the fees and other charges of the district.

ii. Subsurface sewage permit(s) or site evaluation approval(s) from the appropriate agency.

Section 120 Replatting and Vacation of Plats:

Response: Criteria met:

- (1) The replat is requested by the owner.
- (2) The same procedure and standards that apply to the creation of a plat (preliminary plat followed by a final plat) is being used to replat a recorded plat.
- (3) Limitations on replatting include, but are not limited to, the following:
 - (a) The replat is for a recorded plat.
 - (b) The replat does not vacate any public street or road.
 - (c) The replat does not act to vacate any recorded covenants or restrictions.
- (4) The replat meets applicable County Standards and does not abridge any public rights.
- (6) Vacation of Lot Lines, owner authorized, that separate Lot 48 into Lot 48a and 48b is proposed by the owner.

<u>Section 130: Property Line Adjustments.</u> <u>Response: Criteria met:</u>

(1) A Property Line Adjustment requests the modification of lot boundaries, Lots 13a, 13b, 14-19, 46-48, where no parcel or lot is created.

(a) <u>Submission Requirements</u>: The application includes:

- * A preliminary property line map drawn to scale identifies existing and proposed lot lines and dimensions.
- * No structures are affected by the Property Line Adjustments.
- * Location and Dimensions of public and private streets within and abutting the subject lots.
- * A FEMA FIRMette identifying that the affected lots are not within the regulated Flood Zone.
- * No fences or walls are affected by the application.
- * Applications are signed by all owners on the deeds of the subject lots.

(b) Approval Criteria:

- i. No additional parcel or lot is created.
- ii. Consistent with Lot Standards:
 - 1. All lots and parcels conform to applicable lot standards of the zone including lot area, dimensions, setbacks, and coverage...
 - 4. As applicable, all lots and parcels conform to the Tillamook County Flood Hazard Overlay Zone.
- iii. Consistent with Access and Road authority standards: All lots and parcels conform to the standards or requirements of Section 10.150 Development Standards for Land Divisions and all applicable road authority requirements. Roads are made conforming to road authority standards by the property line adjustment.

(2) Property Line Adjustments in Subdivisions and Partitions:

- (a) Proposed property line adjustments are proposed as replat consistent with Section 120 Replatting and Vacation of Plats.
- (b) Proposed property line adjustments are applied for under Section 130 because:
 - i. The property line adjustment will not result in a substantial reconfiguration of the affected lots, where determined so by the director.
 - ii. All other requirements for property line adjustment set forth in Section 130 are met.

<u>Section 150 Development Standards for Land Divisions</u>:

Response: Criteria met. Consistent with Section 150:

- (1) Water Supply: All lots are served by a public water system.
- (2) Sewage: All lots are served by a community septic system.
- (3) <u>Streets, General</u>: All lots are served by Sahhali South Streets. The only additional improvement is the plat of two Fire Truck Turnarounds, consistent with the 2019 Oregon Fire Code Appendix D. The first at the terminus of Venora Street to serve Lots 47 and 48 and the second at the terminus of Thalassa Drive to serve Lots 13a and 13b, required to constructed with the first of those lots to be developed.
- (4) <u>Access</u>: All lots abut a public road or private easement for at least 25 feet at a width approved by the Public Works Department.
- (5) <u>Storm Drainage System</u>: The stormwater system was improved with the 2005 and 2007 construction of Sahhali South and the first amendment. Additional stormwater facilities approved by the Public Works Department will be provided to serve the new turnarounds at the terminus of Venora Street and Thalassa Drive and to improve stormwater drainage to serve Lots 13a and 13b.
- (6) <u>Blocks</u>: The length, width and shape of blocks considers the need for adequate lot size and width and recognizes the limits of topography.
- (7) <u>Building Lines</u>: Building setback lines are shown on the affected lots and dedicated in the CCR amendments. Special setbacks are recommended by the project Civil Engineer for lots 16 19 (4 lots).

(10) Easements:

(a) Utility Lines: Utility easements to serve Lots 13a and 13b are proposed.

(11) Lots:

- (a) <u>Size</u>: Lot sizes conform to the Tillamook County Zoning Ordinance, established for a Planned Development, as density consistent with the underlying zone. The proposed replat retains the current average lot size and is within the lot minimum and maxim.
- (b) (Septic): Oregon DEQ confirmed that the current community septic permit supports the replat and the addition of one lot.
- (c) <u>Access</u>: Each lot abuts upon a street or private road other than an alley for a width of at least 25 feet.
- (d) Through Lots: No new through lots are provided.
- (e) <u>Lot Side Lines</u>: The replat revises lots so that the side lines of lots run ar right angles to the street upon which they face.

TEXT OF APPLICABLE CRITERIA ADDRESSED BY THIS APPLICATION

Tillamook County Zoning Ordinance

Section 3.320 Neskowin Rural Residential Zone (NeskRR):

. . .

- (2) Uses Permitted Outright:
- (a) Single-family dwelling.

. . .

- (3) Uses Permitted Conditionally:
- (a) Planned Development ... including only uses allowed in Neskowin Zones and excluding commercial development, resorts, hotels, and motels. The number of attached single family dwelling units shall be established in the Planned Development approval process... Wetlands or other areas which cannot be developed due to the existence of sensitive natural features protected by the requirements of this ordinance shall not be used in calculating gross area available for density allowed in a clustered development.
- (b) Two-family dwelling.

. . .

- (4) Standards:
- (a) The minimum lot size is 20,000 square feet ...

. . .

Section 3.520 Planned Development Overlay (PD)

(1) The purpose of the Planned Development is to permit greater flexibility and creativity in the design of land development than is presently possible through the strict interpretation of conventional zoning and land division ordinances. The intent is to encourage development designs that preserve and take advantage of the natural features and amenities of a property such as, but not limited to, views, water frontage, wetlands, sloping topography, geologic features, and drainage areas. A Planned Development should be compatible with the established and proposed surrounding land uses. A Planned Development should accrue benefits to the County and the general public in terms of need, convenience, and service sufficient to justify any necessary exceptions to the zoning and land division ordinances.

(2) Standards and Requirements:
The following standards and requirements shall govern the application of a Planned Development in an area in which it is permitted.

. . .

- (c) The density of a planned development will be based on the density of the underlying zone.
- (d) The height limit may be increased to not more than 35 feet by the Planning Commission in approving a specific Planned Development project. If the applicant is requesting a height increase, this request shall be noted in the notice to affected property owners. The Planning Commission may allow an increase in the height if there is a reasonable basis for the additional height such as topography of the site, clustering of units, preservation of open space, staggering of building sites, and view corridors between oceanfront dwelling units.
- (e) Dimensional standards for lot area, depth, width, and all yard setback standards of the underlying zone shall not apply, and these standards shall be established through the Planned Development approval process in order to fulfill the purpose set forth in Section 3.520(1). ...
- (f) The development standards of the Land Division Ordinance shall provide the basic guide for the design of a Planned Development. Variances may be permitted through the Planned Development approval process in order to fulfill the purposes set forth in Section 3.520(1). ...
- (3) <u>Planned Development Procedure</u>: The following procedures shall be observed for and acting on a planned development:
- (a) An applicant shall submit a preliminary development plan to the Planning Department for review. The preliminary plan shall include the following information:
 - (1) Proposed land uses, building locations, and housing unit densities.
 - (2) Proposed circulation pattern indicating the status of street ownership.
 - (3) Proposed open space uses.
 - (4) Proposed grading and drainage pattern.
 - (5) Economic and supporting data to justify any proposed commercial development in an area not so zoned.

- (6) Relation of the proposed development to the surrounding area and the comprehensive plan.
- (b) <u>During its review</u>, the Planning Commission shall distribute copies of the proposal to County agencies for study and comment. In considering the plan, the Planning Department shall seek to determine that:
 - (1) There are special physical circumstances or objectives of development which the proposal will satisfy to warrant a departure from the standard ordinance requirements.
 - (2) Resulting development will not be incompatible with the comprehensive plan provisions or zoning objectives of the area.
 - (3) The plan can be completed within a reasonable period of time.
 - (4) The streets are adequate to support the anticipated traffic and the development will not overload the streets outside the planned area.
 - (5) Proposed utility and drainage facilities are adequate for the population densities and type of development proposed.
 - (6) The parcel is suitable for the proposed use, considering the size, shape, location, topography, existence of improvements, and natural features.
 - (7) The proposed use will not alter the character of the surrounding area in a manner which substantially limits, impairs, or prevents the use of surrounding properties for the permitted uses listed in the underlying zone.
 - (8) The proposed use is timely, considering the adequacy of public facilities and services existing or planned for the area affected by the use.
 - (9) Proposed uses which are not otherwise permitted by the underlying zoning on the parcel are accessory uses within the entire development.
- (c) The Planning Department shall notify the applicant whether, in its opinion, the foregoing provisions have been satisfied and, if not, whether they can be satisfied within further plan review.
- (d) ...
- (e) If the property is to be divided under the provisions of the Land Division Ordinance, a request according to the requirements of the Ordinance shall be included as part of the Planning Commission's review.

- (f) The filing fee for a planned development is the total of all fees for the action requested.
- (g) In addition to the requirements of this section, the Planning Commission may attach conditions it finds are necessary to carry out the purposes of this ordinance.
- (h) Planned Development shall be identified on the zoning map with the letters "PD" in addition to the abbreviated designation of the existing zone.
- (i) Building permits in a planned development shall be issued only on the basis of the approved plan. Any changes in the approved plan shall be submitted to the Planning Commission for approval in accordance with the procedures for approval of a conditional use request.
- (j) In an existing PD overlay zone, lots on parcels of record as of the date of adoption of this ordinance which are less than one acre in size may be built upon in accordance with all other requirements of the zone in which the lot or parcel is located and of this ordinance.

Section 4.130 Development Requirements for Geologic Hazard Analysis:

. . .

(4) A report written for a subdivision, planned development, or partition pursuant to the requirements of this Section, may be used to satisfy these requirements for subsequent building ...permits providing that the original report provided recommendations on building placement and construction and that these recommendations are followed. The Geologic Hazard report shall be prepared, stamped, and signed by both an Oregon Certified Engineering Geologist and a qualified Oregon Registered Engineer. ... The Planning Director or designee shall determine the boundary limits of the study area. The Geologic Hazard Report shall be prepared and submitted on forms deemed acceptable by the County and shall include plan and section al diagrams of the area showing property boundaries and the geographic information required by (6) below.

. . .

(6) The Geologic Hazard Analysis for (a) slopes 19% or greater shall include the following: (i) Soils and bedrock types; (ii) Slope; (iii) Orientation of bedding planes in relation to the dip of the surface slope; (iv)Soil depth; (v) Other relevant soils engineering data; (vi) Water drainage patterns; (vii) Identification of visible landslide activity in the immediate area.

- (7) The Geologic Hazards report shall recommend development standards that will protect the development ton the property and surrounding properties. These should include standards for: (a) Development density (when more than one use is possible); (b) Locations for structures and roads; (c) Land grading practices, including standards for cuts and fills; (d) Vegetation removal and re-vegetation practices; (e) Foundation design (f special design is necessary); (f) Road design (if applicable); (g) Management of stormwater runoff during and after construction.
- (8) The Geologic Hazard report shall include the following summary findings and conclusions: (a) The type of use proposed and the adverse effects it might have on adjacent areas; (b) Hazards to life, public and private property, and the natural environment which may be caused by the proposed use; (c) Methods for protecting the surrounding area from any adverse effects of the development; (d) Temporary and permanent stabilization programs and the planned maintenance of new and existing vegetation; (e) The proposed development is adequately protected from any foreseeable hazards including but not limited to geologic hazards, wind erosion, undercutting, ocean flooding and storm waves; (f) The proposed development is designed to minimize adverse environmental effects."

Article 6 Conditional Use Procedures and Criteria

Section 6.010 Purpose:

The purpose of a Conditional Use is to provide for uses that are not allowed by right in certain zone because of potentially adverse impacts on uses permitted by right in that zone. Such uses may be made or deemed compatible through the review process contained in this article.

Section 6.020 Procedure

The following procedure shall be observed in submitting and acting on a Conditional Use request:

(1) A request may be initiated for a conditional use or the modification of an approved conditional use by filing an application with the Department. The Department may require any information necessary for a complete understanding of the proposed use and its relationship to surrounding properties.

- (2) The Director shall act administratively [Type | Review] according to the procedure set forth in Article 10 or shall refer to the Commission for a public hearing and decision [Type | II review]. The application shall be referred to the Commission if the director determines that the proposed use would have significant impacts that extend beyond the abutting properties, and that those impacts are not likely to be adequately addressed by response to public notice required by Section 10.070. If the Director elects to refer the application to the Commission, it shall be heard at the next available Commission hearing, unless the application requests otherwise.
- (3) No Conditional Use permit shall be invalidated because of failure to receive notice provided for in Section 10.070.

Section 6.030: General Requirements

A Conditional Use shall be authorized pursuant to the procedures set forth in Section 6.020, if the applicant adequately demonstrates that the proposed use satisfies all relevant requirements of this Ordinance, including the review criteria contained in Section 6.040... and the following general requirements.

- (1) A Conditional Use shall be subject to the standards of the zone in which it is located except as those standards have been modified in authorizing the Conditional use. ...
- (2) A Conditional Use may be enlarged or altered pursuant to the following:
 - (a) Major alterations of a Conditional Use, including changes to or deletions of any imposed conditions, shall be processed as a new Conditional Use application.

• • •

. . .

Section 6.040 Review Criteria

Any Conditional Use authorized according to this Article shall be subject to the following criteria, where applicable:

- (1) The use is listed as a Conditional Use in the underlying zone...
- (2) The use is consistent with the Goals and Policies of the Comprehensive Plan.
- (3) The parcel is suitable for the proposed use considering its size, shape, location, topography, existence of improvements, and natural features.
- (4) The proposed use will not alter the character of the surrounding area in a manner which substantially limits, impairs, or prevents use of surrounding properties for the permitted uses listed in the underlying zone.
- (5) The proposed use will not have a detrimental effect on existing solar energy systems, wind energy conversion systems, or windmills.
- (6) The proposed use is timely, considering the adequacy of public facilities or services existing or planned in the area affected by the use.

Section 6.070 Conditions of Approval:

In approving a Conditional Use or a modification of a Conditional Use, any conditions which are considered necessary to protect the area surrounding the proposed use, and to preserve the basic purpose and intent of the underlying zone may be imposed. These may include, and are not limited to, the following:

- (1) Increasing the required parcel size or yard dimensions.
- (2) Limiting the height, size, or location of buildings and structures.
- (3) Modifying the location and number of off-street parking and loading spaces.
- (4) Controlling the location and number of vehicle access points.
- (5) Limiting the number, size, and location of signs.
- (6) Requiring diking, fencing, screening, landscaping, or other measures to protect adjacent or nearby properties from the effects of the use.
- (7) Prescribing a time limited within which to fulfill any established conditions.

Section 6.080 Compliance with Conditions

Adherence to the approved plot plan and compliance with conditions imposed in approving a conditional use shall be required. Any departure from the conditions of approval or approved plans constitutes a violation of this Ordinance.

Section 6.090 Time Limit

All Conditional uses except those approved for a Health Hardship may be approved for a 24-month period. If construction has not begun on the approved development, such approvals may be extended beyond 24 months only if the Director determines that a review would be unlikely to reveal new information which could lead to different conclusions than those reflected in the original staff report. For purposes of such a determination, the Director may rely on such things as:

- (1) Changes in Ordinance requirements or the requirements of State Law.
- (2) The extent and character of new development in the vicinity of the request.
- (3) The adequacy of the review upon which the original was based.
- (4) Any other circumstances which could change the substance of the original staff report.

If the Director determines that a new review is warranted, then the applicant shall provide all information and fees required by this Article.

Article 10 Development Approval Procedures

. . .

Section 10.020 Applications

- (1) Applications for ... Type III planning actions may be initiated by the following:
 - (a) The owner of the property that is the subject of the application.

. . .

- (g) By the representative or agent of any of the above upon submittal of written authorization to make such application.
- (3) Consolidated Review. When an applicant applies for more than one type of land use or development permit for the same one or more contiguous parcels of land, the proceedings may be consolidated if requested by the applicant for review and decision.

- (a) Under a consolidated review, required notices may also be consolidated, provided the notice shall identify each application to be decided.
- (b) The applications shall be processed according to the highest numbered review type required for any part of the application. For example, a concurrent review of a Type II review and a Type III review would be processed through a Type III review.
- (c) When more than one application is reviewed in a hearing, separate findings and decisions shall be made on each application.
- (d) The application shall submit an application form and application fee for each type of application being reviewed.
- (4) Decision deadlines and time limits.
- (a) The County shall take final action on Administrative and Quasi-Judicial land use applications, including the resolution of all appeals, within the following time limits:

. . .

- ii. For all other applications: 150 days from the date the application is deemed complete.
- iii. Upon written request of the applicant, the decision period may be extended for a specified period of time. The total of all extensions shall not exceed 215 days (unless a dispute concerning the application will be mediated per ORS 214.427(10)).

. . .

(c) In computing time periods prescribed or allowed by this Chapter, the day of the act or event from which the designated period of time begins shall not be included. The last day of the period shall be included unless it is a Saturday, Sunday or a legal holiday, in which case the period runs until the end of the next day that is not on a weekend or legal holiday.

. . .

(6) Application forms and checklists. Application forms provided by the County must be used for all applications. The County shall supply application forms pursuant to the standards contained in applicable State laws, Comprehensive Plan policies, and Ordinance provisions. The County shall also supply checklists or information sheets that specify the information that must be contained in the application including format and number of copies.

- (a) <u>Application Types</u>. Table 10.1 ... provides a list of all application types and their associated review procedure, review authority and appeal authority.
 - Type 1. Ministerial Review. Decision: Director.
 - Type II. Administrative Review. Decision: Director.
 - Type III. Quasi-Judicial Review. Decision: Planning Commission.
- (b) Application submittal requirements. An Application shall be considered complete when it is submitted in accordance with the format and upon such forms as may be established by the Director. In addition to required hard copies, all materials must be submitted electronically or in a format that does not exceed 11 inches by 17 inches in size. A complete application is one which contains the information required to address the rele3evant standards of this ordinance and the applicable standards and requirements of the Comprehensive Plan specified by this Ordinance. At minimum, a complete application must contain the following items:
 - i. Application form with applicable signatures.
 - ii. Payment of applicable review fees.
 - iii. Deed, title, or other proof of ownership.
 - iv. Detailed description of all existing and proposed uses and structures, including a summary of all information contained in any site plans. The description may need to include both a written and graphic component such as elevation drawings or 3D models.
 - v. Detailed statement that demonstrates how the proposal meets all applicable approval criteria, zoning and land use regulations, and development standards.
 - vi. Site plan(s), preliminary plat, or final plat as applicable.
 - vii. Information demonstrating compliance with prior decision(s) and conditions of approval for the subject site, as applicable.
 - viii. Any other information identified on the specific application form or submittal checklist.
 - ix. Copy of the pre-application summary, if applicable.

Section 10.030 Pre-Application Conference

(1) <u>Purpose</u>. The purpose of a pre-application conference is to acquaint the applicant with the substantive and procedural requirements of the Ordinance; provide for an exchange of information regarding the applicable elements of the

Comprehensive Plan and development requirements; arrange such technical and design assistance as will aid the applicant; and to identify policies and regulations that create opportunities or pose significant constraints for the proposed development.

The Department shall make available such background information as may be on file relating to the general area of the subject parcel or parcels, and any plans the County may have, or information related to past activity or development in the area upon the request of the developer. The Department shall advise the applicant of the design standards, improvement requirements, and procedures established by the County for the review and approval of the proposed land use action.

(2) Applicability.

. . .

(d) Type III decisions require a pre-application meeting with the Department for the purpose of informing the Department of the proposal. A pre-application conference may not be waived.

Section 10.040 Review Types

All land use applications will be reviewed by the County using one of the following review types. Specific applications and their associated review types are listed in Table 10.1.

. . .

(3) Type III Quasi-Judicial. Type III decisions ...are made by the Planning Commission after a public hearing, with an opportunity to appeal to the Board of Commissioners... Quasi-Judicial decisions involve the exercise of discretion and judgement when applying applicable land use and development criteria but implement established policy.

. . .

Section 10.050 General Noticing Requirements

The County shall provide opportunities for public and agency input in the planning process. To ensure that there is a coordinated effort to permit land use projects, notice of applications for development approval shall be sent to interested entities, local, state, and federal agencies, County departments, and County designated Citizen Advisory Committees. A list of applicable local, state, and federal agencies and entities shall be maintained by the Director.

10.080 Type III Procedures

- (1) Notice for Type III Decisions.
- (a) Notice of Review. The County shall provide notice of a public hearing on a Quasi-Judicial application at least 28 days prior to the first hearing date. If two or more hearings are allowed, then notice shall be provided at least 10 days prior to the first hearing. The County Planning Director shall prepare the affidavit of notice, which shall be made part of the file. This affidavit shall state the date that the notice was mailed. Notice of the public hearing shall be provided to the following parties:

. .

ii. Property owners within 250 feet of subject property if the subject property is outside UBG and not in farm or forest zone.

. . .

- viii. Other persons as may be affected by the proposal.
- (b) Notice of a public hearing shall include the following information:
 - i. A summary of the proposal and the relevant approval criteria.
 - ii. The general location of the subject property and, when available, street address, legal description, or other easily understandable reference to the location of the proposed use or development.
 - iii. The date, time and location of scheduled hearing and the name of the hearing body.
 - iv. The name of a local government representative to contact and the telephone number where additional information may be obtained.
 - v. A disclosure statement indicating that if any person fails to address the relevant approval criteria in sufficient detail, in person or at a hearing or by written statement letter, they may not be able to appeal to the Board of Commissioners, plan D sort of appeals, or Circuit Court, as applicable, on that issue. Only comments on the relevant approval criteria are considered relevant evidence.
 - vi. A statement that a copy of the application, all documents and evidence submitted by or on behalf of the applicant and applicable criteria are available for inspection at no cost and will be provided at reasonable costs.

- vii. A statement that a copy of the staff report will be available for inspection at no cost at least seven days prior to the hearing and will be provided at reasonable costs.
- viii. A general explanation of the requirements for submission of testimony and the procedure for conduct of hearings.
- (c) Newspaper notice. Notice of the public hearing shall be published in a newspaper of general circulation in the county at least 10 calendar days prior to the date of a quasi-judicial public hearing. An affidavit or other formal certification of publication shall be made part of the record.

(d) Notice of decision.

- i. The notice of decision shall include the following information:
- A description of the applicant's proposal and the County's decision, including conditions of approval if applicable.
- 2. The street address or other easily understood geographical description of the subject site, including a map of the property in relation to the surrounding area.
- 3. The date the decision shall become final, unless appealed, and the due date for an appeal (12 days from the date the decision notice was mailed).
- 4. A statement that the County's decision, including findings and conclusions and conditions of approval, if any, is available for review at the county.
- 5. A statement that persons entitled to appeal pursuant to section 10.110 may appeal the planning commission's decision to the county Board of Commissioners or may appeal the Board's decision to Land Use Board of Appeals, as applicable.
- (2) Conduct of the Public Hearing.

(a) Staff Report.

At least seven days prior to the hearing, the Department shall provide to the hearing body and make available to the public for inspection or purchase a report detailing the nature of the request and findings based on the applicable criteria of this chapter.

(b) Application materials.

All application materials, documents, or other evidence submitted by or on behalf of the applicant for any land use approval shall be provided and made available for public review.

(c) Hearings Procedure.

At the commencement of the hearing, the Chairperson of the Commission or his or her designee, shall sate to those in attendance all of the following information and instructions:

- i. The applicable approval criteria by Code chapter that apply to the decision.
- ii. Testimony and evidence shall concern the approval criteria described in the staff report, or other criteria in the comprehensive plan or land use regulations that the person testifying believes to apply to the decision.
- iii. Failure to raise an issue with sufficient detail to give the hearing body and the parties an opportunity to respond to that issue may preclude appeal to the State Land Use Board of Appeals on that issue.
- iv. At the conclusion of the initial evidentiary hearing, the hearing body shall deliberate and make a decision based on the facts and arguments in the public record. See Subsection (6) Record of the Public Hearing.
- v. Any participant may ask the hearing body for an opportunity to present additional relevant evidence or testimony that is within the scope of the hearing; if the hearing body grants the request, it will schedule a date to continue the hearing or leave the record open for additional written evidence or testimony provided in Subsection (5).

(3) Procedural Rights.

An impartial review authority as free from potential conflicts of interest and pre-hearing ex-parte (outside the hearing) contacts as reasonably possible shall be a procedural entitlement provided at the public hearing.

(a) Where questions related to ex-parte contact are concerned, members of the hearing body shall follow

- the guidance for disclosure of ex-parte contacts contained in ORS 227.180.
- (b) Where a real conflict of interest arises, that member or members of the hearing body shall not participate in the hearing, except where State law provides otherwise.
- (c) Where the appearance of a conflict of interest is likely, that member or members of the hearing body shall individually disclose their relationship to the applicant in the public hearing and state whether they are capable of rendering a fair and impartial decision. If they are unable to render a fair and impartial decision, they shall be excused from the proceedings.

(4) Presenting and receiving evidence.

- (a) The hearing body may set reasonable time limits for oral presentations and may limit or exclude cumulative, repetitious, irrelevant or personally derogatory testimony or evidence.
- (b) No oral testimony shall be accepted after the close of the public hearing. Written testimony may be received after the close of the public hearing only as provided by this Section.
- (c) Members of the hearing body may visit the property and the surrounding area and may use information obtained during the site visit to support their decision if the information relied upon is this close to the beginning of the hearing and an opportunity is provided to dispute the evidence.
- (d) after the conclusion of the initial evidentiary hearing any participant may request an opportunity 2% additional evidence or testimony regarding the application. The review authority shall grant such a request by continuing the public hearing or leaving their record open for additional written evidence or testimony pursuant to subsection 5 below.

(5) Continuance.

All documents or evidence relied upon by the applicant shall be submitted to the local government and made available to the public. If additional documents or evidence are provided by any parties, to review authority may allow a continuance or leave the record open for at least seven days to allow the parties a reasonable opportunity to respond. Any continuance for extension of

the records requested by the applicant shall result in a corresponding extension of time limitations of ORS 215.428.

- (a) If the review authority granted continuance, the hearing shall be continued to add date, time, and place certain at least seven days from the date of the initial evidentiary hearing. An opportunity shall be provided at the continued hearing for persons to present and rebut new evidence and testimony period if new written evidence is submitted at the continued hearing, any person may request, prior to the conclusion of the continued hearing, that the record be left open for at least seven days to submit additional written evidence or testimony for the purpose of responding to new written evidence.
- (b) If the review authority leaves the record open for additional written evidence or testimony the record shall be left open for at least seven days. Any participant may file a written request with the review authority for an opportunity to respond to new evidence submitted during the period the record was left open. If such a request is filed, the review authority shall reopen the record and any person may raise new issues that relate to the new evidence, testimony, or criteria for decision making which applied to the matter at issue.
- (c) A continuance or extension granted pursuant to Subsection 6 shall be subject to the limitations of ORS 215.428.
- (d) Unless waived by the applicant, the review authority shall allow the applicant at least seven days after the record is closed to all other parties to submit final written arguments in support of the application. The applicant's final submittal shall be considered part of the record but shall not include any new evidence.
- (6) Record of the Public Hearing.
 - (a) The official public hearing record shall include all of the following information:
 - i. All materials considered by the hearing body.
 - ii. All materials submitted by the County Planning Official to the hearings body regarding the application.
 - iii. The minutes of the hearing.
 - iv. The final written decision.

- Copies of all notices given as required by this v. Article, and correspondence regarding the application that the County mailed or received.
- The meeting minutes shall be filed in hardcopy form (b) with the County Planning Official. The minutes and other evidence presented as part of the hearing shall be part of the record.
- All exhibits received and displayed shall be marked to (C) provide identification and shall be part of the record.

(7) Effective Date of Decision.

Quasi-Judicial Decision. Unless the conditions of approval specify otherwise, a Quasi-Judicial decision becomes effective ten business days after the County mails the decision notice unless the decision is appealed pursuant with Section 10.110.

Land Division Ordinance Approval Procedures.

```
Purpose.
Section 020:
              Definitions.
Section 030: General Provisions.
Section 040: Preliminary Plat Approval Process.
Section 060: Preliminary Plat Submission Requirements.
Section 070: Preliminary Plat Approval Criteria.
Section 120:
              Re-Platting and Vacation of Plats.
```

Section 130: Property Line Adjustments. Improvement Procedures. Section 140:

Section 150: Development Standards for Land Divisions.

Land Division Ordinance Approval Procedures.

Section 010: Purpose

Section 010:

- (1)The purpose of this Ordinance is to establish standards for property line adjustments for the division of land by way of partition or subdivision and for the development of improvements for areas of Tillamook County outside the urban growth boundaries of incorporated cities.
- (2) These regulations are necessary:
 - (a) In order to provide uniform procedures for the division of land.
 - To coordinate proposed developments with development (b) plans for highways, utilities, and other public facilities.

- (c) To provide for the protection, conservation, and proper use of land, water, and other natural resources.
- (d) To carry out the policies and intent of the County Comprehensive Plan.
- (e) To ensure adequate lot and parcel sizes for homesites.
- (f) To encourage safe and convenient access for vehicles, pedestrians, and bicyclists.
- (g) To ensure adequate sanitation and water supply services.
- (h) for the equitable allocation of costs for improvements such as roads, sewers, water, and other service facilities.
- (i) For the protection of the public from pollution, flood slides, fire and other hazards to life and property.
- (j) To provide for energy efficient land use and the use of renewable resources.
- (k) To provide for the accurate and timely recording in the office of the County Clerk all newly created property boundaries, street, roads, rights-of-ways, and easements.
- (1) To protect in other ways, the public health, safety, and general welfare.
- (3) It is expressly not the purpose or intent of this Ordinance to encourage the division of land or the provision or extension of roads or sewer lands into lands designated for resource use by the Tillamook County Land Use Ordinance. Thus, Subdivisions shall be limited to those zones designated for residential, commercial, or industrial use. All references to sewer lines in this Ordinance apply only to lands where such services conform to the intent and purposes of the County Comprehensive Plan.

Section 020: Definitions

Partition:

The division of a tract of land into not more than three parcels of land within one calendar year when such land exists as a single unit or contiguous units of land under single ownership at the beginning of the same year.

Partition does not include:

Declarant: Richard Boyles, Sahhali South LLC.

. . .

(2) Adjusting a property line as <u>property line adjustment</u> is designed in this section.

. . .

Section 040: Preliminary Plat Approval Process.

- (1) Review Procedures. Preliminary Plats for partitions shall be processed using the Type II procedure under Article 10. Preliminary Plats for subdivisions shall be processed using the Type III procedure under Article 10 Section 10.080. All preliminary plats are subject to the approval criteria in Section 10.070 of this ordinance.
- (2) Approval Period. Preliminary plats approval shall be effective for a period of two (2) years from the date of approval. The preliminary plat shall lapse if a final plat has not been submitted or other assurance provided within the two-year period. ...
- (3) Extensions. The County may, upon written request of the applicant and payment of the required fee, grant written extensions of the approval period that all of the following criteria are met:
 - (a) All requests for extensions of preliminary plat approval shall be received in the Department at least 30 days prior to the expiration date of the approval.

. .

(d) No preliminary plat shall be approved for a period greater than 4 years.

. . .

Section 060: Preliminary Plat Submission Requirements.

- (1) Applications for Preliminary Plat approval shall contain the following information:
- (a) General Preliminary Plat Requirements. Information required for a Type II Review (for Partitions) ..., pursuant to Article 10 Section 10.070 and Section 10.080 respectively.
- (b) Preliminary Plat Information. In addition to the general information described in Subsection (a) above, the Preliminary Plat application shall consist of drawings and supplementary material adequate to provide the following information:

i. General Information:

. . .

2. Date, north arrow, scale of drawing.

Declarant: Richard Boyles, Sahhali South LLC.

- 3. Location of the development sufficient to define its location, boundaries, and a legal description of the site.
- 4. Zoning of parcel to be divided, including any overlay zones.
- 5. A title block including the names, addresses and telephone numbers of the owners of the subject property, and, as applicable, the name of the engineer and surveyor and the date of the survey.
- 6. Clear identification of the drawing as a "Preliminary Plat" and the date of preparation.
- 7. Name and addresses of the owner(s), developer, and the engineer or surveyor.
- ii. Existing Conditions: Except where the Director deems certain information is not relevant, applications for Preliminary Plat approval shall contain all of the following information on existing conditions:
 - Existing streets or roads (public or private), including location, names, right-of-way and pavement widths on and abutting the site, and location of existing access points.
 - 2. Width, location, and purpose of existing easements of record on and abutting the site.
 - 3. The location and present use of all structures on the site and indication of which, if any, structures are to remain after platting.
 - 4. Location and identify of all utilities on and abutting the site. ...
 - 5. Location of all existing subsurface sewage systems, including drain fields and associated easements on the site.
 - 6. Ground elevations shown by contour lines at 2-foot vertical interval. Such ground elevations shall be related to some established benchmark or other datum approved by the County Surveyor. The Director may waive this standard for partitions when grades, on average, are less than 10 percent.
 - 7. The location and elevation of the closest benchmark(s) within or adjacent to the site (i.e., for surveying purposes.)
 - 8. Natural features such as drainage ways, rock outcroppings, aquifer recharge areas, wetlands, marshes, beaches, dunes, and tide flats.

- 9. Any plat that is five (5) acres or larger, or proposes 50 lots or greater, shall include the Base Flood Elevation, per FEMA Flood Insurance Rate Maps.
- 10. North arrow and scale.
- 11. Other information, as deemed necessary by the Planning Director for review of the application. The County may require studies or exhibits prepared by qualified professionals to address specific site features and code requirements.
- iii. <u>Proposed Development</u>. Except where the Director deems certain information is not relevant, applications for Preliminary Plat approval shall contain all of the following information on the proposed development.
 - 1. Proposed lots, streets, open space, and park land (if any); location, names, right-of-way dimensions, approximate radius of street curves and approximate finished street center line grades ... All streets and tracts that are being held for private use and all reservations and restrictions relating to such private tracts shall be identified.
 - 2. City boundary lines when crossing or adjoining the subdivision.
 - 3. Easements: location, width, and purpose of all proposed easements.
 - 4. Proposed deed restrictions, if any, in outline form.
 - 5. Lots and private tracts (e.g., private open space, common area, or street): approximate dimensions, area calculation (e.g., in square feet), and identification numbers for all proposed lots and tracts.
 - 6. Proposed uses of the property, including all areas proposed to be dedicated as public rights-of-way or preserved as open space for the purpose of surface water management, recreation, or other use.
 - 7. On slopes exceeding an average grade of 10%, as shown on a submitted topographic survey, the preliminary location of development on lots (e.g., building envelopes), demonstrating that future development can meet minimum required setbacks and applicable engineering design standards.
 - 8. Preliminary utility plans for sewer, water, and storm drainage when these utilities are to be provided. This information may be included on the preliminary plat map provided all information is legible.

- 9. The approximate location and identify of other utilities, including the location s of street lighting fixtures, as applicable.
- 10. Evidence of compliance with applicable overlay zones, including but not limited to the Flood Hazard Overlay (FH) Zone.
- 11. Evidence of contact with the applicable road authority for proposed new street connections.
- 12. Certificates or letters from utility companies or districts stating that they are capable of providing service to the proposed development.

. . .

- (d) Fifteen (15) legible "to scale" hard copies, or a lesser amount as deemed necessary by the Director, and one digital copy of the preliminary plat and all supplementary materials shall be submitted to the Department.
- (e) Upon receipt of the preliminary plat and supplementary material, the Department shall furnish one copy each to the County Surveyor, the County Health Department, the County Sanitarian, the County Public Works Department, the County Assessor, and the appropriate school and fire districts.

 ... When the Department determines that it is necessary to do so, it shall furnish a copy of the plans to the Tillamook County Soil and Water Conservation District (SWCD), the appropriate water and sewer districts, the telephone service and electric service companies, and appropriate state or federal resource protection agencies.

Section 070: Preliminary Plat Approval Criteria.

(1) Approval Criteria.

The Approval Authority (Director for Partitions ...) may approve, approve with conditions, or deny a preliminary plat. The Approval Authority decision shall be based on findings of compliance with all of the following approval criteria:

- (a) The land division application shall conform to the requirements of this ordinance.
- (b) All proposed lots, blocks, and proposed land uses shall conform to the applicable provisions of the Land Use Ordinance, Article 3 Zone Regulations, and the standards in Section 150 of this Ordinance.

- (c) Access to individual lots and public improvements necessary to serve the development, including but not limited to water, sewer and streets, shall conform to the standards in Section 150 of this ordinance.
- (d) The proposed plat name is not already recorded for another subdivision, does not bear a name similar to or pronounced the same as the name of any other subdivision within the County, unless the land platted is contiguous to and platted by the same party that platted the subdivision bearing that name or unless the party files and records the consent of the party that platted the contiguous subdivision bearing that name.
- (e) The proposed streets, utilities, and surface water drainage facilities conform to Tillamook County's adopted master plans and applicable engineering standards and, within unincorporated community boundaries, allow for transitions to existing and potential future development on adjacent lands. The preliminary plat shall identify all proposed public improvements and dedications.
- (f) All proposed private common areas and improvements, if any, are identified on the preliminary plat and maintenance of such areas is assured through appropriate legal instrument.
- (g) Provision for access to and maintenance of off-rightof-way drainage, if any.
- (h) Evidence that any required State and Federal permits, as applicable have been obtained or can reasonably be obtained prior to development.
- (i) Evidence that improvements, or conditions required by the road authority, Tillamook County, special districts, utilities, and/or other service providers, as applicable to the project have been or can be met, including but not limited to:
 - i. Water Department / Utility District Letter which states that the partition or subdivision is either entirely excluded from the district or is

included within the district for purposes of receiving services and subjecting the partition or subdivision to the fees and other charges of the district.

- ii. Subsurface sewage permit(s) or site evaluation approval(s) from the appropriate agency.
- (2) Conditions of Approval.

 The Approval Authority may attach such conditions as are necessary to carry out the provisions of this Code, and other applicable ordinances or regulations.

Section 120: Replatting and Vacation of Plats

- (1) Any plat or portion thereof may be re-platted or vacated upon receiving an application signed. By all of the owners appearing on the deed or vacated pursuant to subsection (5) or (6).
- (2) The same procedure and standards that apply to the creation of a plat (preliminary plat followed by final plat) shall be used to re-plat a recorded plat.
- (3) Limitations on replatting include, but are not limited to, the following:
 - (a) A replat shall apply only to a recorded plat.
 - (b) A replat shall not vacate any public street or road.
 - (c) A replat of a portion of a recorded plat shall not act to vacate any recorded covenants or restrictions.
- (4) A replat application may be denied if it abridges or destroys any public right in any of its public uses, improvements, streets, or alleys, or if it fails to meet any applicable County standards.
- (5) Vacation of lot lines: Quasi-Judicial. One or more interior lot lines in a recorded plat may be vacated either by private petition or by public resolution as prescribe din ORS 368. A lot line vacation under this provision is a quasi-judicial action subject to an established fee, petition / application, notice and hearing before the Planning Commission.
- (6) <u>Vacation of lot lines: Owner Consent</u>: Notwithstanding the above provision, and as authorized by ORS 368, one or more

interior lines in an approved subdivision or partition may be vacated upon written consent from 100 percent of those who own the private property proposed to be vacated; or in cases involving public property, written consent shall be obtained from 100 percent of property owners abutting the public property proposed to be vacated.

- (a) A pre-application conference and administrative action fee shall be required. Property owner consent shall be obtained by the applicant and submitted to the Planning Department on forms provided by the County. Those owners whose consent signature is required shall be identified by the Planning Department. Property owner consent signatures shall be verified by sending a copy of the signed consent form to each identified property owner.
- (b) The line vacation shall be approved:
 - i. Upon verification of the required consent signatures.
 - ii. After the Director or the Public Works Director file a written report finding that the action:
 - 1. Complies with applicable land use regulations.
 - 2. Facilitates development of the private property subject to the vacation.
 - 3. Any vacation of public property is in the public interest.

Section 130: Property Line Adjustments.

- (1) A Property Line Adjustment is the modification of a parcel or lot boundary when no parcel or lot is created. The Director reviews applications for Property Line Adjustments pursuant with the Type I procedure under Section 10.060 [Preliminary Plat Submission Requirements]. The application submission and approval process for Property Line Adjustments is as follows:
 - (a) Submission Requirements.

All applications for Property Line Adjustments shall be made on forms provided by the County and shall include information required for a Type I review, pursuant to Section 10.060 [Preliminary Plat Submission Requirements].

The application shall include:

• A preliminary property line map drawn to scale and based on the Director's determination, may be

- required to identify all existing and proposed lot lines and dimensions.
- Footprints and dimensions of existing structures (including accessory structures).
- Location and dimensions of driveways and public and private streets within or abutting the subject lots.
- A FEMA FIRM-ette identifying the subject properties and demonstration of compliance to <u>Section 3.060</u> [Flood Hazard Overlay (FH) Zone].
- Tillamook County Flood Hazard Overlay Zone; existing fences and walls; and
- Any other information deemed necessary by the Director for ensuring compliance with County codes.
- The application shall be signed by all the owners as appearing on the deeds of the subject lots.
- (b) <u>Approval Criteria</u>. The Director shall approve or deny a request for a property line adjustment in writing based on the following criteria:
 - i. <u>Parcel creation</u>. No additional parcel or lot is created by the lot line adjustment.

ii. Lot standards.

- 1. All lots and parcels conform to the applicable lot standards of the zone including lot area, dimensions, setbacks, and coverage, except where 2 or 3 applies.
- 2. For properties entirely outside an Unincorporated Community Boundary, where one or both of the abutting properties are smaller than the minimum lot or parcel size for the applicable zone before the property line adjustment, one property shall be as large or larger than the minimum lot or parcel size for the applicable zone after the adjustment.
- 3. For properties entirely outside an Unincorporated Community Boundary, both abutting properties are smaller than the minimum lot size for the applicable zone before and after the property line adjustment.

- 4. As applicable, all lots and parcels shall conform the Tillamook County Flood Hazard Overlay Zone.
- iii. Access and Road authority standards.
 All lots and parcels conform to the standards or requirements of Section 10.150 [Development Standards for Land Divisions] and all applicable road authority requirements are met. If a lot is nonconforming to any road authority standard, it shall not be made less conforming by the property line adjustment.
- (c) Recording Property Line Adjustments.
 - i. All property line adjustments shall comply with ORS Chapter 92 and be executed by deed.
 - ii. All deeds necessary to execute a property line adjustment shall be filed and recorded with the Tillamook County Clerk's office.
- (2) Property Line Adjustments in Subdivisions and Partitions.
 - (a) Except as provided in subsection (b), all property line adjustments within recorded plats shall be accomplished by replatting in accordance with Section 10.120 [Replatting and Vacation of Plats].
 - (b) Property lines within a recorded plat may be adjusted in accordance with the procedure for property line adjustments set forth in <u>Section 10.130 [Property Line Adjustments]</u>, rather than replatting when the director determines that:
 - i. The property line adjustment will not result in a substantial reconfiguration of the affected lots or parcels, as determined by the Director.
 - ii. All of the other requirements for property line adjustments set forth in <u>Section 10.130</u> [Property Line Adjustments] will be met.

Section 150: Development Standards for Land Divisions
The following requirements shall apply to all land divisions:

- (1) <u>Water Supply</u>: All lots or parcels shall either be served by a public domestic water supply system conforming to State of Oregon specifications.
- (2) <u>Sewage</u>: All lots or parcels shall either be served by a public or community sewage disposal system conforming to state specifications and policies and intent of the Comprehensive Plan, ... Such systems shall be approved by the County Sanitarian considering soil and water conditions and the nature of the water supply.
- The developer shall grade and improve Streets, General: (3) all streets in the subdivision or partition and shall extend such streets to the paving line of existing streets, in conformance with the standards contained in this Ordinance. Street improvements shall be provided consistent with the standards in Sections 150 and 160 and shall include curbs and shoulders to the extent that they are required by the density or character of the development. Improvements may be required by the Public Works Department on streets serving but not within the boundaries of the Subdivision or through Partition of a parcel with a buildout potential of 5 or more parcels. Such improvements which are required in areas not within the plat perimeter shall be limited to the extent required to serve the proposed Subdivision or Partition.

(4) Access:

(a) All parcels created by a partition shall abut a public road or private easement for at least 25 feet for access. All private easements serving four or fewer lots shall be at least 25 feet wide unless a lesser width is approved by the Public Works Department.

(5) Storm Drainage System:

Such grading shall be performed, and drainage facilities installed confirming to Tillamook County Public Works Department specifications as are necessary to provide proper drainage within the development and other affected areas in order to secure safe, healthful, and convenient conditions for the residents of the Subdivision and the general public. When feasible, and when such off-site drainage facilities have the capacity to carry the increased drainage flow, drainage facilities in the development shall be connected to drainage facilities outside the development. Areas subject to inundation shall comply with the applicable provisions of the Tillamook

County Land Use Ordinance. Provisions for the access and maintenance of storm drainage facilities that are not located in a public right of way shall be provided as required in accordance with adopted County standards. An easement or tract with adequate width for access and maintenance of drainage facilities shall be provided.

- (a) Design exceptions to these standards may be approved by the Tillamook County public works director. For subdivisions, such approval is subject to approval ratification by the Planning Commission. The county engineer may, in concurrence with the community development department, approved design exceptions to these standards for petitions. Design exceptions may only be approved if the provisions of section 110: minor revisions to preliminary approved land divisions are met.
- (b) When lot sizes are increased to provide separation of water sources and sewage disposal systems but are likely to be capable of further division as described in section 050 of this ordinance, the requirements of section 050 must be met.

(6) Blocks:

- (a) <u>General</u>: The length comment width and shape of blocks shall take into account the need for adequate lot size and width and shall recognize the limitations of the topography.
- (b) <u>Size</u>: No block shall be more than 1000 feet in length between street corner lines unless it is adjacent to an arterial street or unless topography or the location of adjoining streets requires otherwise. ...

(7) Building Lines:

(a) If special building set back lines are to be established in the subdivision, they shall be shown on the preliminary subdivision plat. If setbacks are proposed which are less than the minimum requirements contained in either the land use ordinance or in Section 100 of this ordinance, the Planning Commission may approve such special setbacks only in accordance with the requirements of Section 080 of this ordinance. Special set back lines shall not be established

which would preclude the use of insulation for alternative energy production on adjacent blocks.

(9) Dedications:

The Commission may require as a condition of approval the dedication to the public rights of way for public purposes. All dedications must appear on the final plat and be approved by the county prior to recording.

(10) Easements:

(a) Utility Lines:

> Easements for utilities shall be dedicated whenever necessary.

Pedestrian Ways: (b)

> When desirable for public convenience, pedestrian ways may be required to connect cul-de-sacs or to pass through unusually long or oddly shaped blocks.

(11) Lots:

(a) Size:

Lot sizes shall conform to standards contained in the Tillamook County Land Use Ordinance. ...

- In areas that will not be served by public water (b) supply or public sewer, minimum lot sizes shall conform to the requirements of the County Health Department and shall take into consideration requirements for water supply and sewage disposal.
- Access: (C)

each lot shall abut upon a street or private road, other than an alley, for a width of at least 25 feet.

- Through lots: ... (d)
- Lot Side Lines: (e)

where possible, the side lines of lots shall run at right angles to the street upon which they face, unless a different angle is required to provide optimum solar orientation or is necessary to conform to topography or road orientation.

Declarant: Richard Boyles, Sahhali South LLC.



Tillamook County Department of Community Development

1510-B Third Street. Tillamook, OR 97141 | Tel: 503-842-3408 Fax: 503-842-1819

www.co.tillamook.or.us

OFFICE USE ONLY

Date Stamp

PLANNING APPLICATION

W =		
Applicant □ (Check Box if Same as Prop	perty Owner)	
Name: Richard Boyles Phone	(541) 284-0613	
Address: 840 Beltline Rd. Ste. 202.		
City: Springfield State: (OR Zip:97477	☐ Approved ☐ Denied
Email: rboyles@meretehotels.com		Received by:
•		Receipt #:
Property Owner	(544) 004 0040	Fees:
	(541) 284-0613	Permit No:
Address:840 Beltline Rd. Ste. 202.		851PLNG
City: Springfield State:	OR Zip:97477	
Email:rboyles@meretehotels.com		
Day Approve Six (6) Application Degus	sets as follows: (1) Dranarty Line	Adjustment Deplet of Lete 14 10:
Request: Approve Six (6) Application Reque		
2) Property Line Adjustment Replat (4) Lots		<u> </u>
4) Replat Partition Lots 13a and 13b into (2)		
mend CCRs Section 10.13, Addendum to N	• • •	
Type II	Type III	Type IV
☐ Farm/Forest Review	☐ Appeal of Director's Decision	
☑ Conditional Use Review	☐ Extension of Time	☐ Appeal of Planning Commission
☐ Variance	☐ Detailed Hazard Report	Decision
Exception to Resource or Riparian Setback	☐ Conditional Use (As deemed	☐ Ordinance Amendment
☐ Nonconforming Review (Major or Minor)	by Director)	☐ Large-Scale Zoning Map
☐ Development Permit Review for Estuary	☐ Ordinance Amendment	Amendment ☐ Plan and/or Code Text
Development	☐ Map Amendment	Amendment
□ Non-farm dwelling in Farm Zone	☐ Goal Exception	Amendment
☐ Foredune Grading Permit Review		
Neskowin Coastal Hazards Area		
Location:	0 40 44 45 4C 47 40 40 40	47 400 406
Site Address: Sahhali South, Tract A, Lot 13	5a, 13b, 14, 15, 16, 17, 18, 19, 46	o, 47, 48a, 48b.
Map Number: 5S 11W 24AB		Fortion Tay Lot (s)
Township Range		Section Tax Lot(s)
Clerk's Instrument #:		
Authorization		
This permit application does not assure permit	approval. The applicant and/or prop	erty owner shall be responsible for
obtaining any other necessary federal, state, an	d local permits. The applicant verific	es that the information submitted is
complete, accurate, and consistent with other i	nformation submitted with this app	lication.
Property Owner Signature (Required)		Date
Applicant Signature		Date
-		



Tillamook County Department of Community Development 1510-B Third Street. Tillamook, OR 97141 | Tel: 503-842-3408

Fax: 503-842-1819

Date Stamp

OFFICE USE ONLY

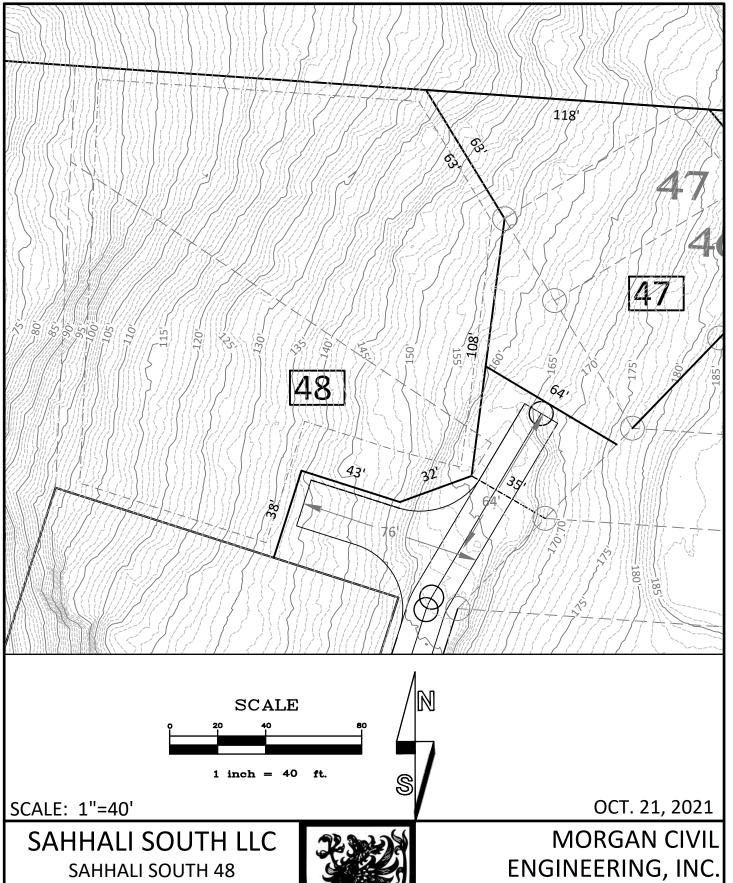
www.co.tillamook.or.us

LAND DIVISION APPLICATION

Applicant □ (Check Box if Same as P	ronerty Owner)		
., ,	one:		
Address:	Jiic.		□ Annroyed □ Denied
City: Sta	te: Zip:		☐ Approved ☐ Denied Received by:
Email:	τε. Σιρ.		Receipt #:
Liliali.			Fees:
Property Owner			Permit No:
Name: Pho	one:		851PLNG
Address:			
City: Sta	te: Zip:		
Email:			
Location:			
Site Address:			
Map Number:			
Township	Range	Section	Tax Lot(s)
Land Division Type: Partition (Two	o or Three Lots, Type II)	☐Subdivision (Fo	ur or More Lots, Type III)
☐ Preliminary P	lat (Pages 1-2)	☐ Final Plat (Page	e 3)
☐ PRELIMINARY PLAT (LDO 060(1)(B))			
((// //	General Informat	ion	
\square For subdivisions, the proposed name.	☐ Parcel zoning and o	verlays	☐ Fifteen (15) legible "to
☐ Date, north arrow, scale of drawing.	☐ Title Block	•	scale" hard copies
☐ Location of the development	☐ Clear identification	of the drawing as	\square One digital copy
sufficient to development sufficient to	"Preliminary Plat" a	nd date of preparatio	n
define its location, boundaries, and a	☐ Name and addresse	s of owner(s),	
legal description of the site.	developer, and engi		
	Existing Condition		
☐ Existing streets with names, right-of-	☐ Ground elevations s	,	Other information:
way, pavement widths, access points.	contour lines at 2-fo		
☐ Width, location and purpose of	interval. Such groun		
existing easements	shall be related to s		
☐ The location and present use of all	benchmark or other approved by the Co		
structures, and indication of any that will remain after platting.	☐ The location and ele		
☐ Location and identity of all utilities on	closest benchmark(
and abutting the site. If water mains	adjacent to the site	,	
and sewers are not on site, show	☐ Natural features suc	ch as drainage	
distance to the nearest one and how	ways, rock outcropp	oings, aquifer	
they will be brought to standards	recharge areas, wet	lands, marshes,	
 Location of all existing subsurface 	beaches, dunes and		
sewerage systems, including	\Box For any plat that is 5	_	
drainfields and associated easements	the Base Flood Elev		
	Flood Insurance Rat	e Maps	
Land Division Permit Application	Rev 9/11/15		Page 1

	Proposed De	velopment	
 □ Proposed lots, streets, tracts, open space and park land (if any); location, names, right-of-way dimensions, approximate radius of street curves; and approximate finished street center line grades. All streets and tracts that are being held for private use and all reservations and restrictions relating to private tracts identified □ Location, width and purpose of all proposed easements □ Proposed deed restrictions, if any, in outline form □ Approximate dimensions, area calculation (in square feet), and identification numbers for all proposed lots and tracts 	☐ Proposed uses of including all area dedicated as pub or reserved as op ☐ On slopes exceed grade of 10%, as submitted topograpeliminary locat development on demonstrating the development can required setback engineering desig ☐ Preliminary utility water and storm these utilities are	s proposed to be lic right-of-way ven space ling an average shown on a raphic survey, the ion of lots nat future meet minimum s and applicable gn standards y plans for sewer, drainage when	 □ The approximate location and identity of other utilities, including the locations of street lighting fixtures, as applicable □ Evidence of compliance with applicable overlay zones, including but not limited to the Flood Hazard Overlay (FH) zone □ Evidence of contact with the applicable road authority for proposed new street connections □ Certificates or letters from utility companies or districts stating that they are capable of providing service to the proposed development
Additio	onal Information Re	equired for Subdiv	visions
 □ Preliminary street layout of undivide □ Special studies of areas which appeadue to local geologic conditions □ Where the plat includes natural feater conditions or requirements contained Land Use Ordinance, materials shall demonstrate that those conditions are quirements can be met □ Approximate center line profiles of sextensions for a reasonable distance of the proposed Subdivision, showing finished grades and the nature and econstruction 	ed portion of lot ar to be hazardous ures subject to the ed in the County's be provided to and/or atreets, including the beyond the limits g the proposed	☐ Profiles of prop☐ ☐ In areas subject submitted to do the Flood Haza Land Use Ordin☐ ☐ If lot areas are nature of cuts a character of the Proposed methodomeon improduced.	oosed drainage ways t to flooding, materials shall be emonstrate that the requirements of rd Overlay (FHO) zone of the County's lance will be met to be graded, a plan showing the and fills, and information on the

☐ FINAL PLAT (LDO 090(1))	
□ FINAL PLAT (LDO 090(1)) □ Date, scale, north arrow, legend, highways, and railroads contiguous to the plat perimeter □ Description of the plat perimeter □ The names and signatures of all interest holders in the land being platted, and the surveyor □ Monuments of existing surveys identified, related to the plat by distances and bearings, and referenced to a document of record □ Exact location and width of all streets, pedestrian ways, easements, and any other rights-of-way □ Easements shall be denoted by fine dotted lines, and clearly identified as to their purpose □ Provisions for access to and maintenance of off-right-of-way drainage □ Block and lot boundary lines, their bearings and lengths □ Block numbers □ Lot numbers □ The area, to the nearest hundredth of an acre, of each lot which is larger than one acre □ Identification of land parcels to be dedicated for any purpose, public or private, so as to be distinguishable from lots intended for sale	Certificates: Title interest & consent
Authorization This permit application does not assure permit approve responsible for obtaining any other necessary federal, review and approval, all final plats for land divisions except as required otherwise for the filing of a plat to The applicant verifies that the information submitted information submitted with this application.	state, and local permits. Within two (2) years of fina shall be filed and recorded with the County Clerk lawfully establish an unlawfully created unit of land
Applicant Signature	Date

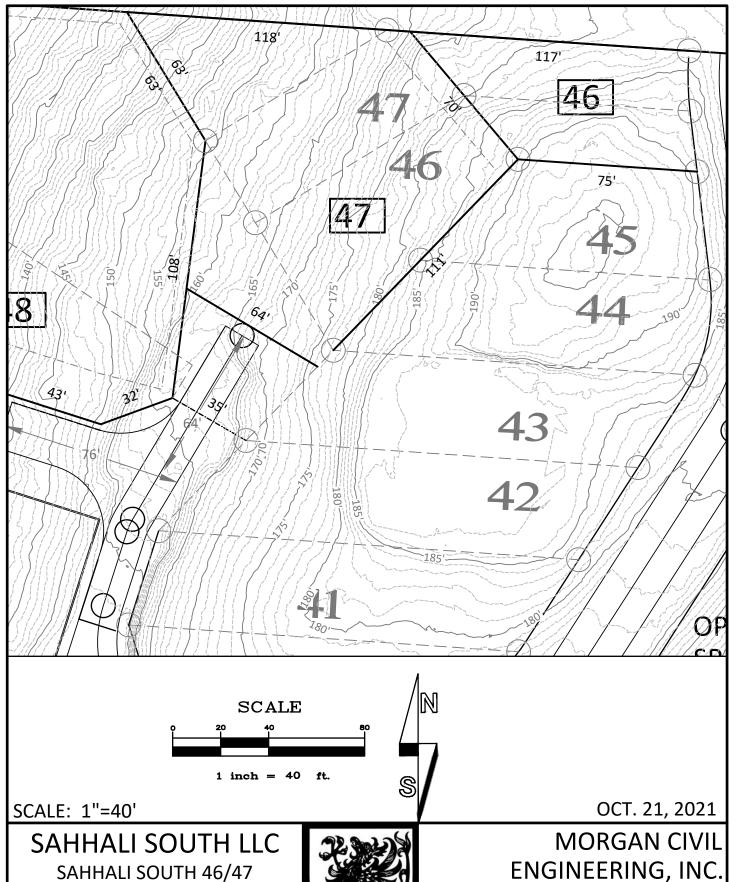


VANORA STREET LIDAR TOPOGRAPHY

NESKOWIN/5S 11W 24AB



- CIVIL ENGINEERING
- INSPECTION
- PLANNING



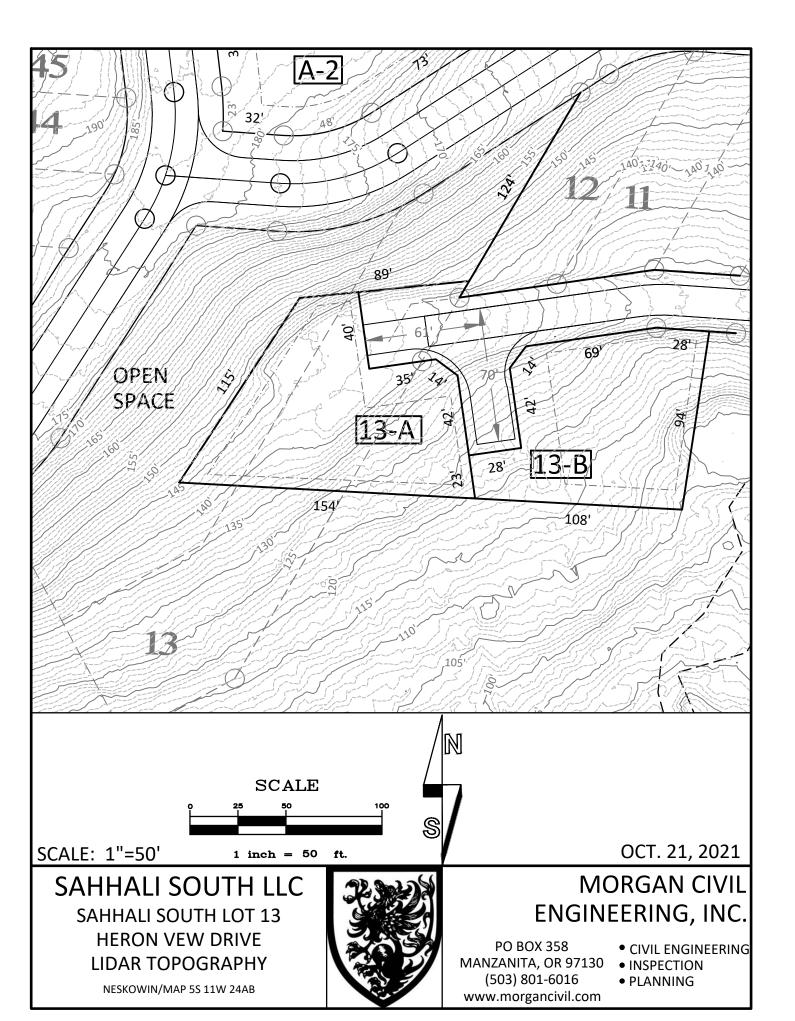
VANORA STREET LIDAR TOPOGRAPHY

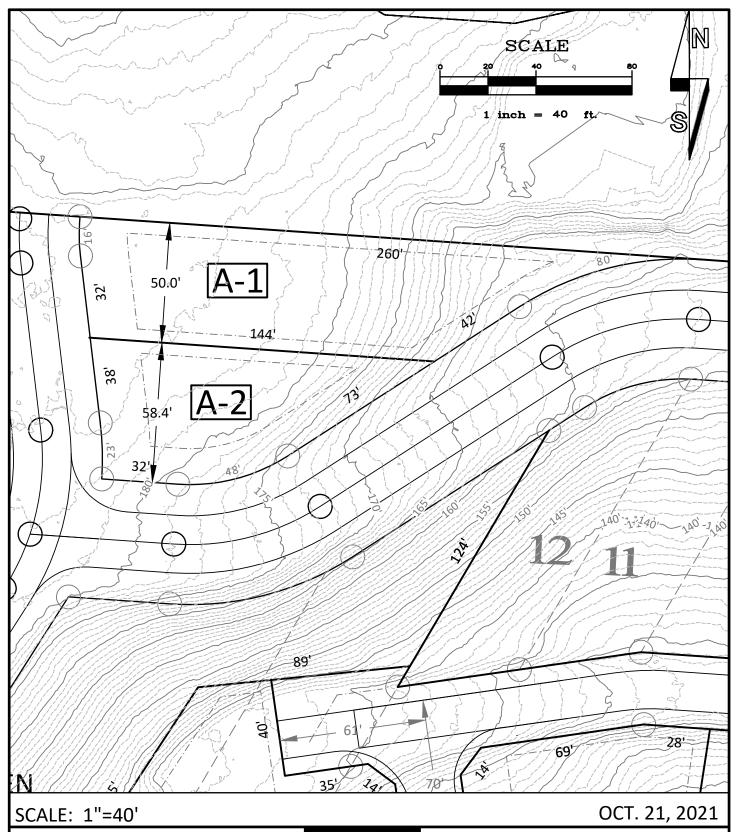
NESKOWIN/5S 11W 24AB



ENGINEERING, INC.

- CIVIL ENGINEERING
- INSPECTION
- PLANNING





SAHHALI SOUTH LLC

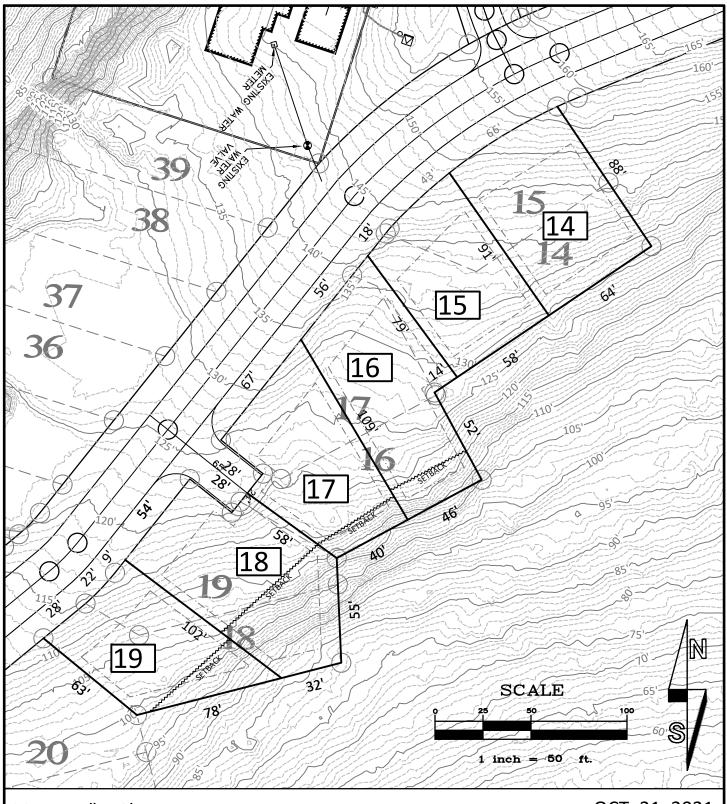
SAHHALI SOUTH TRACT A PROPOSAL POINT DRIVE LIDAR TOPOGRAPHY

NESKOWIN/MAP 5S 11W 24AB



MORGAN CIVIL ENGINEERING, INC.

- CIVIL ENGINEERING
- INSPECTION
- PLANNING



SCALE: 1"=50' OCT. 21, 2021

SAHHALI SOUTH LLC


SAHHALI SOUTH LOTS 14-19 PROPOSAL POINT DRIVE LIDAR TOPOGRAPHY

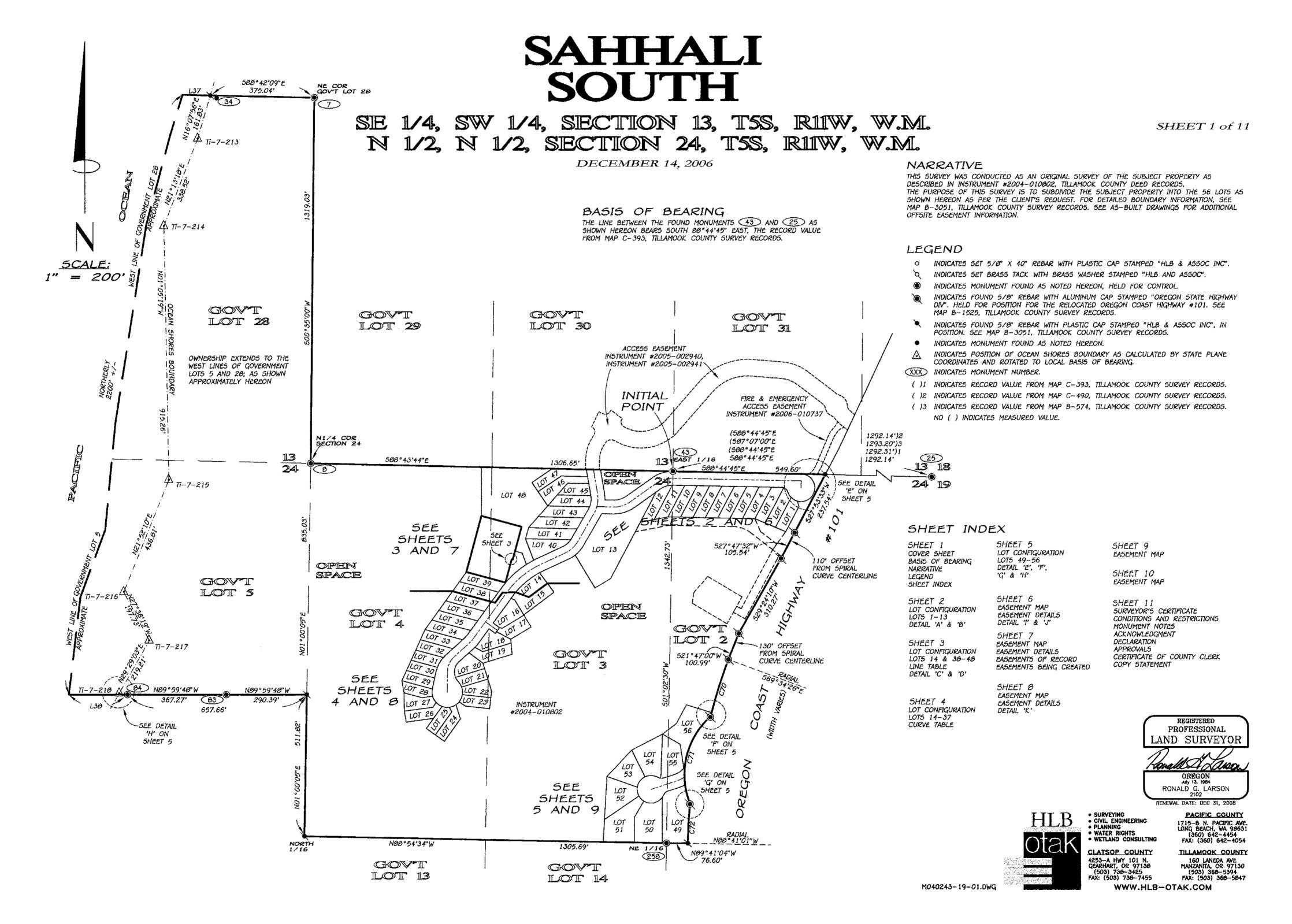
NESKOWIN/MAP 5S 11W 24AB



MORGAN CIVIL ENGINEERING, INC.

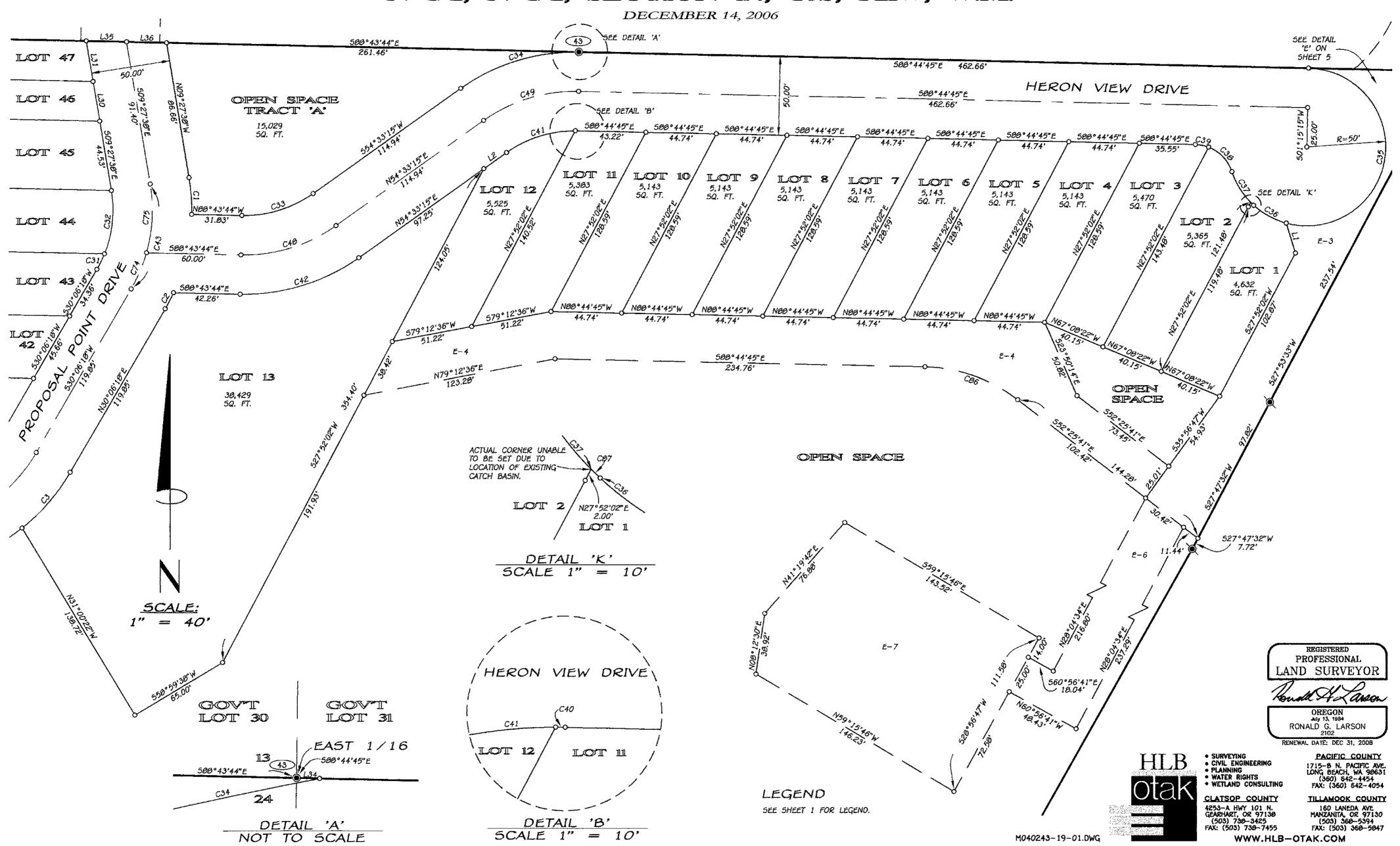
- CIVIL ENGINEERING
- INSPECTION
- PLANNING





SE 1/4, SW 1/4, SECTION 13, T5S, R11W, W.M. N 1/2, N 1/2, SECTION 24, T5S, R11W, W.M.

SHEET 2 of 11



574°56'20"E

LOT 37

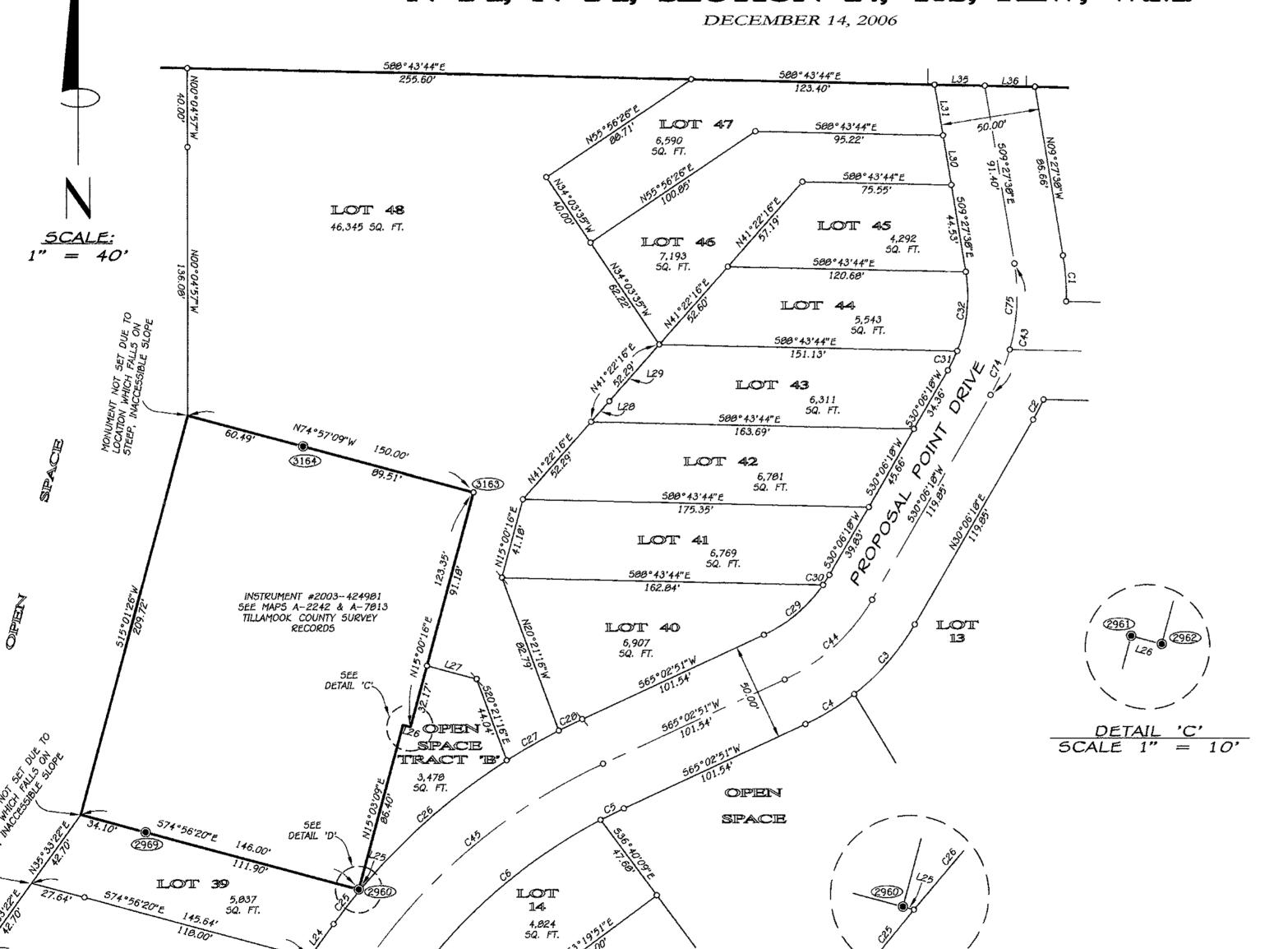
5,820

SAHHALI SOUTH

SE 1/4, SW 1/4, SECTION 13, T5S, R11W, W.M. N 1/2, N 1/2, SECTION 24, T5S, R11W, W.M.

 $\frac{\text{DETAIL 'D'}}{\text{SCALE 1"}} = 5'$

SHEET 3 of 11

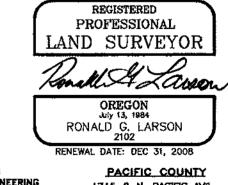


LOT

LEGEND

SEE SHEET 1 FOR LEGEND.

LIN	LINE TABLE			
LINE	BEARING	LENGTH		
LI	517°08'02"E	19.83'		
L2	N54°33'15"E	17.69		
L3	569°48'10"E	14.06'		
L4	N35°55'13"E	13.19		
L5	531°02'27"E	1.68'		
L6	575°48'38"E	9.89'		
L7	N54°04'47"W	28.00'		
LB	N35°55'13"E	13.00'		
L9	N35°55'13"E	5.81'		
L10	N35°55'13"E	7.19'		
L11	535°55'13"W	26.00'		
L12	505" 10'14"E	13.67'		
L13	554°04'47"E	28.00'		
L14	N47°54'08"E	24.51'		
L15	517°01'35"E	19.94'		
L16	506° 12'42"W	24.26'		
L17	N55°37'16"W	26.67'		
L18	N30°34'10"W	18.93'		
L19	N31°56'18"E	20.54		
1.20	512°00'03"W	19.48'		
1.21	547°54'08"W	31.05		
1.22	547°54'08'W	10.02'		
1.23	535°55'13"W	18.85'		
124	535°55'13"W	21.15'		
1.25	N74°56'20"W	0.73'		
126	575°04'43"E	4.01'		
L27	574°59'44"E	26.01'		
L28	N41°22'16"E	13.98		
L29	N41°22'16"E	38.31'		
L30	509°27'38"E	25.55'		
L31	509°27'38"E	26.06'		
L32	N88°54'34"W	15.14"		
L33	547°03'28"W	6.36'		
L34	588°44'45"E	0.37'		
L35	508° 43'44"E	25.45'		
L36	588°43'44"E	25.45'		
L37	500° 42'09" E	100'+/-		
L38	N89°59'48'W	200'+/-		





SURVEYING
 CIVIL ENGINEERING
 PLANNING
 WATER RIGHTS
 WETLAND CONSULTING

• WATER RIGHTS
• WETLAND CONSULTING

CLATSOP COUNTY

4253-A HWY 101 N.

GEARHART, OR 97139

(503) 730-3425

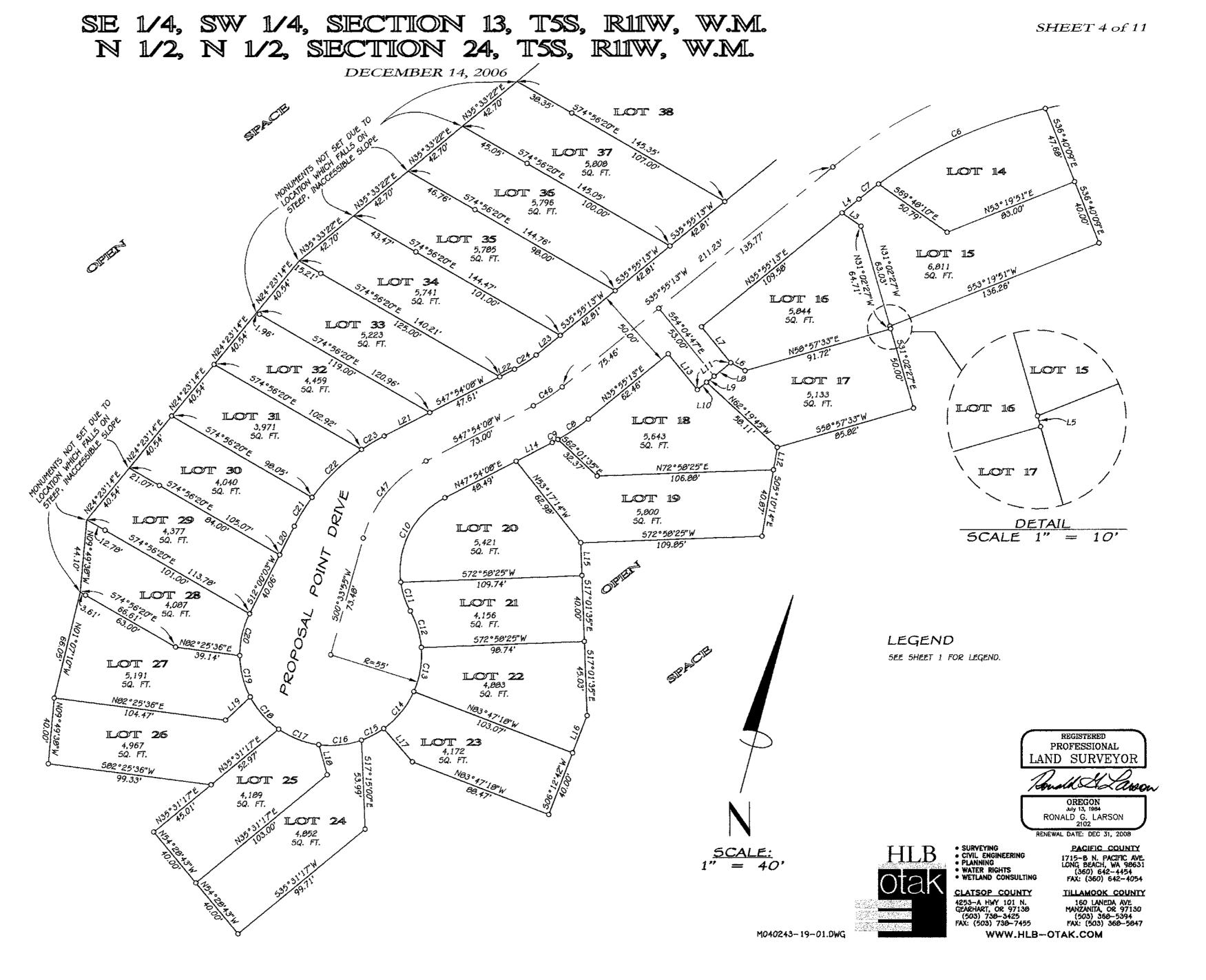
FAX: (503) 730-7455

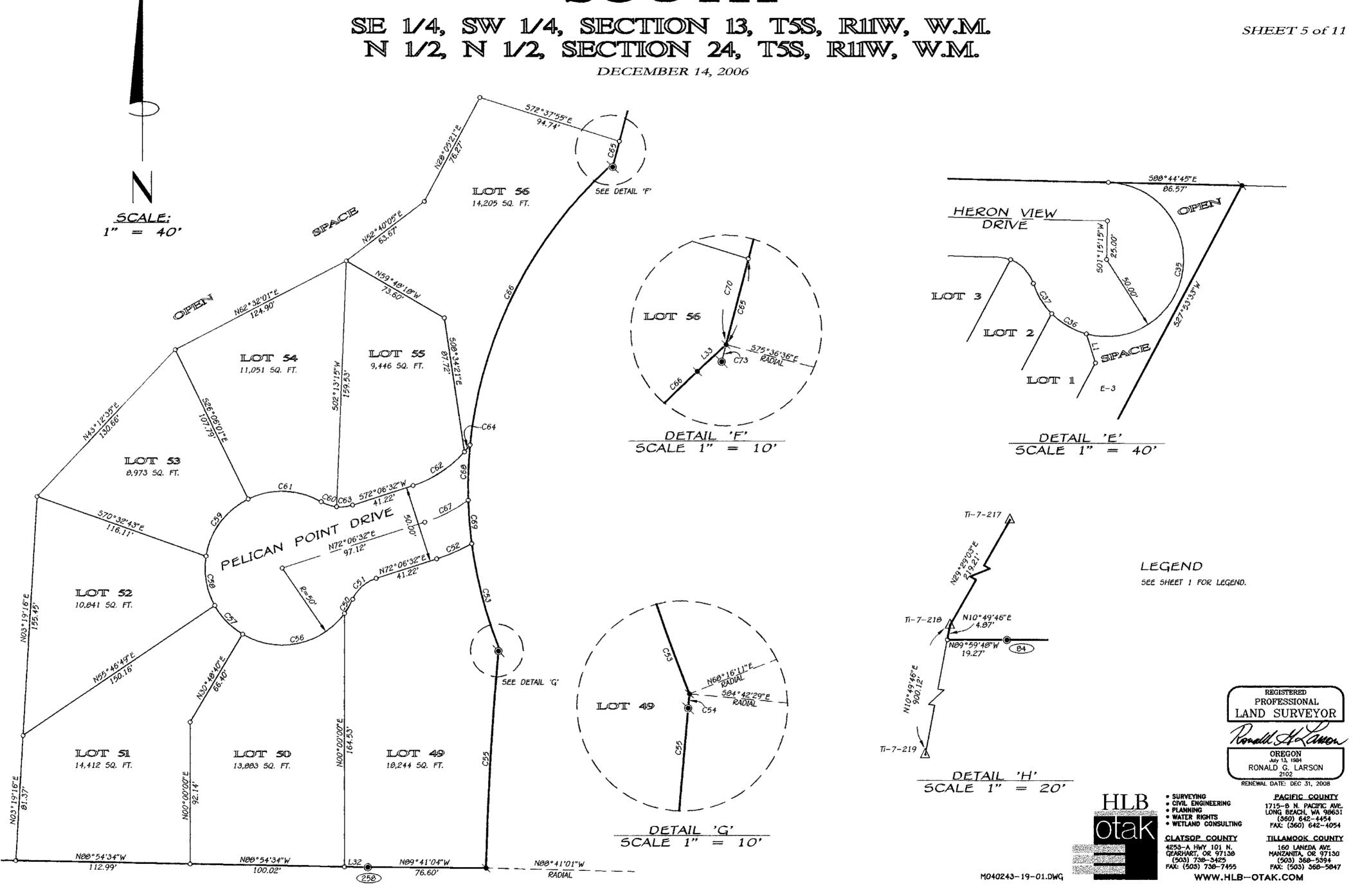
ING PACIFIC COUNTY
INGINEERING 1715-B N. PACIFIC AVE.
LONG BEACH, WA 98631
RIGHTS (360) 642-4454
FAX: (360) 642-4054

DP COUNTY
HWY 101 N.
15, OR 97138
738-3425
33) 738-7455

WWW.HLB-OTAK.COM

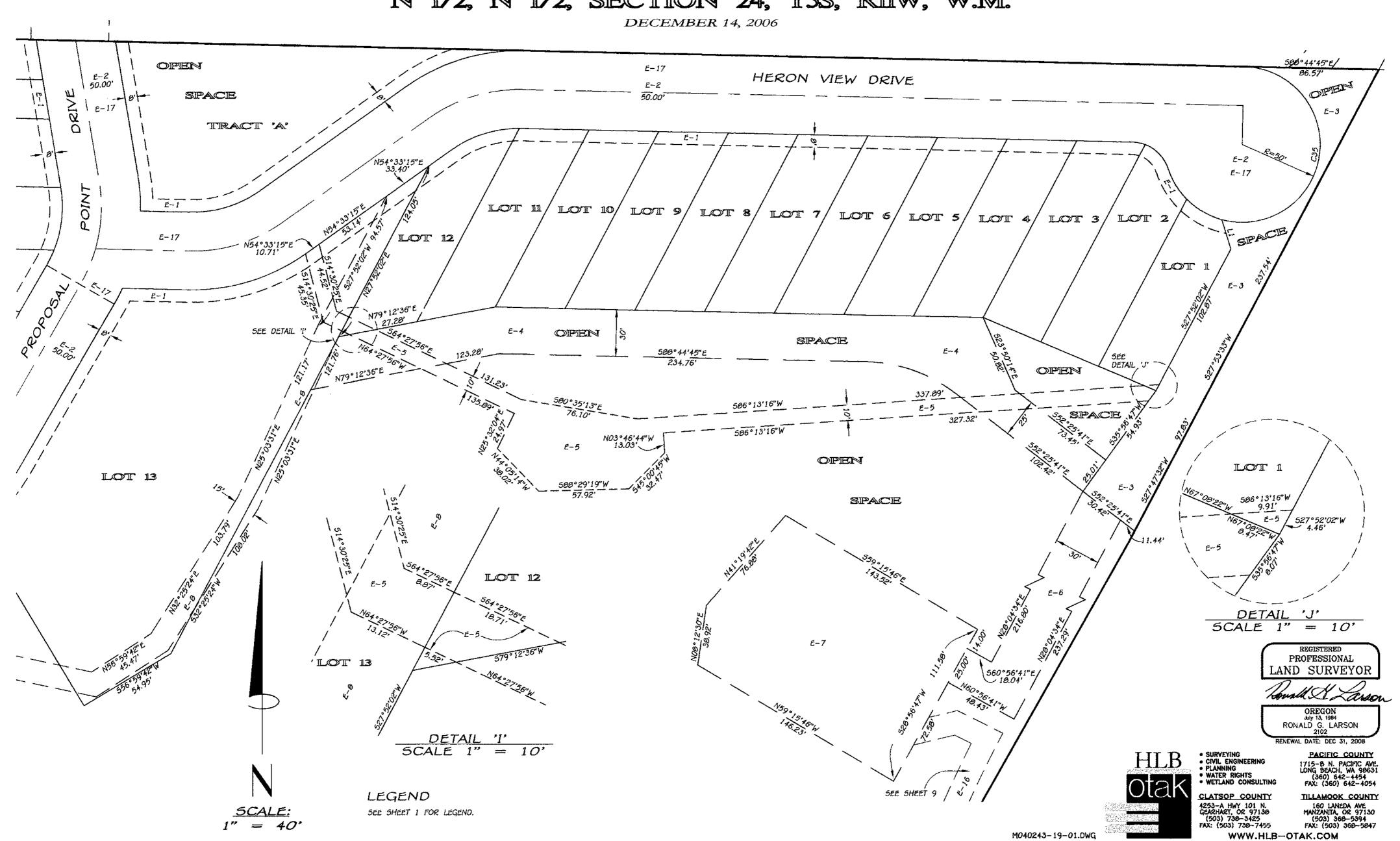
CURVE	RADIUS	LENGTH		3LE [CH. BEARING]	CH. LENGTH
C1	125.00'	23.39*	10°43'14"	N04°06'01"W	23.35'
C2	125.00	11.49'	5°16'04"	N27°28'16"E	11.49'
C3	125.00'	47.12'	21°36'00"	N40°54'18"E	46.85'
C4	125.00	29.11'	13°20'33"	N58°22'35"E	29.04'
C5	275.00	13.17'	2°44'38"	563°40'32"W	13.17'
C6	275.00	111.65	23°15'42"	N50°40'22"E	110.88'
C7	275.00	14.98'	3°07'18"	N37°28'52"E	14.98'
CO	125.00'	22,21'	10° 10'49"	N41°00'38"E	22.18'
C9	125.00	3.93'	1° 48'06"	N47°00'05"E	3.93'
C10	50.00'	61.55'		N12°38'04"E	57.74'
C11	50.00'	18.51'	21°12'59"	 	18.41'
C12	55.00'	23.25'	24° 13'24"		23.08'
C13	55.00'	27.51'	28°39'41"		27.23'
C14	55.00'	29.16'	30°22'50"	N24° 13'29"E	28.82'
C15	55.00'	15.23'	15°51'57"	N47°20'52"E	15.18'
	55.00'	26,25'	27°20'37"		26.00'
C16 C17	55.00'	26.25	27°20'39"	N68°57'09"E 583°42'13"E	26.00'
C18			27°20'39"	556°21'34"E	26.00'
	55.00'	26,25'			
C19	55.00'	26,20'	27°17'50"	529°02'20"E	25.96'
C20	55.00'	25.29'	27°23'28"	501°41'41"E	26.04'
C21	125.00'	20.58'	9°25'58"	516° 43'02"W	20.56'
C22	125.00'	41.80'	19°09'29"	531°00'45"W	41.60'
C23	125.00'	15.95'	7°18'39"	544°14'49"W	15.94'
C24	75.00'	15.68'	11"50'55"	541°54'41"W	15.66'
C25	325.00'	21.95'	3°52'14"	537°51'20'W	21.95'
C26	325.00'	99.59'	17°33'24"	548°34'09"W	99.20'
C27	325.00'	30.44'	5°21'58"	560°01'50"W	30.43'
C28	325.00	13.24'	2°20'02"	563°52'50"W	13.24'
C29	75.00'	39.78'	30°23'12"	N49°51'15"E	39.31'
C30	75.00'	5.96'	4°33'21"	532°22'59"W	5.96'
C31	75.00'	10.91	ذ 19'53"	525°56'22"W	10.90'
C32	75.00'	40.89'	31°14'04"	506°09'24"W	40.38'
C33	75.00'	48.06'	36°43'01"	572°54'46"W	47.24'
C34	125.00'	80.07'	36°42'00"	572°54'15"W	70.71'
C35	50.00'	169.24'	193°55'52"	N08° 13'11"E	99.26'
C36	50.00'	24.30'	27°50'52"	560°53'27"E	24.06'
C37	50.00'			531°26'46"E	22.88'
C38	25.00'	22.15'	•	543°35'52"E	21.43'
C39	25.00'	8.63'	19°46'02"	578°51'44"E	8.58*
C40	75.00'	1.53'	1°09'57"	589°19'44"E	1.53'
C41	75.00'	46.51'	35°32'03"	N72°19'17"E	45.77'
C42	125.00'	BO.10'	36°43'01"	N72°54'46"E	78.74'
C43	100.00'	69. <i>05</i> '	39°33'56"	N10°19'20"E	67.69'
C44	100.00'	60.99'	34°56'33"	N47°34'35"E	60.05'
C45	300.00'	152.51'	29°07'38'		150.87'
C46	100.00*	20.91'	11°58'55"	N41°54'41"E	20.87'
C47	75.00'		47°20'13"	524° 14'02" W	60.22'
C48		64.08'		N72°54'46"E	
C49	100.00'			572°54'15"W	
C50				N30°01'38"E	
C51				N48°00'51"E	20.41'
C52				N66°25'22"E	24.77'
C53	281.35			514°36'57"E	69.69'
C54	2068.24		0°03'52"		2.33'
C55	2068.24		3°54'40"	503°16'19"W	141.15'
C56	50.00'	73.89'	84°40'34"		67.35'
C57	50.00	26.30	30°08'24"		26.00'
C58	50.00	33,18'		510°02'25"E	32.57'
C59	50.00'	47.94'		536°26'03"W	46.12'
C60	25.00'			N71°50'47"W	10.52'
C61		49.22'		N87°54'03"W	47.25'
C62	75.00'			556°40'42"W	39.91'
C63		10.43'		584°03'31"W	10.35'
C64	75.00'	5.78'	4°24'49"		5.78'
			0°24'11"		14.40'
C65	2048.24				·
C67	281.35'		41°28'42" 18°08'31"		199.26' 31.53'
C67	100.00'	31.66'		N63°02'17"E	
C68	281.35'	35.95'	7°19'16"	501°55'08"W	35.93'
C69	281.35'		5°45'36"	504°37'17"E	28.27'
C70			6°02'10"	517°24'29"W	
C71				512°39'49"W	
C72	2068.24				
C73			0°04'48"		·····
C74				522°55'11"W	
C75	100.00'	43.97'	25°11'42"	503°08'13"W	43.62'
C76	275.00	38.09	7°56′11"	556°17'05"W	38.06'
C77	275.00*	9.84'	2°03'03"	561°16'42"W	9.84'
C78	125.00'	51.44"	23°34'38"	N13°02'55"E	51.08'
C79	55.00'	12.66'	13°11'36"	N48°41'03"E	12.64'
C80	55.00	2.87'	2°59'04"	N56°46'34"E	2.06'
C81	50.00'	10.45'	11°58'17"	502°50'50"W	10.43'
C82	50.00'	15.07'	17°15'47"	517°35'59"W	15.01'
CB3	733.14			522°24'46"W	143.94
CØ4	748.14			521°19'09"W	144.74
***************************************	281.35	34.41	7°00'27"	543°33'14"W	34.39
CB5	,	1114			- (,,,,
C05 C06	100.00'	63.39'	36°19'04"	N70°35'13"W	62.33'





SE 1/4, SW 1/4, SECTION 13, T5S, R11W, W.M. N 1/2, N 1/2, SECTION 24, T5S, R11W, W.M.

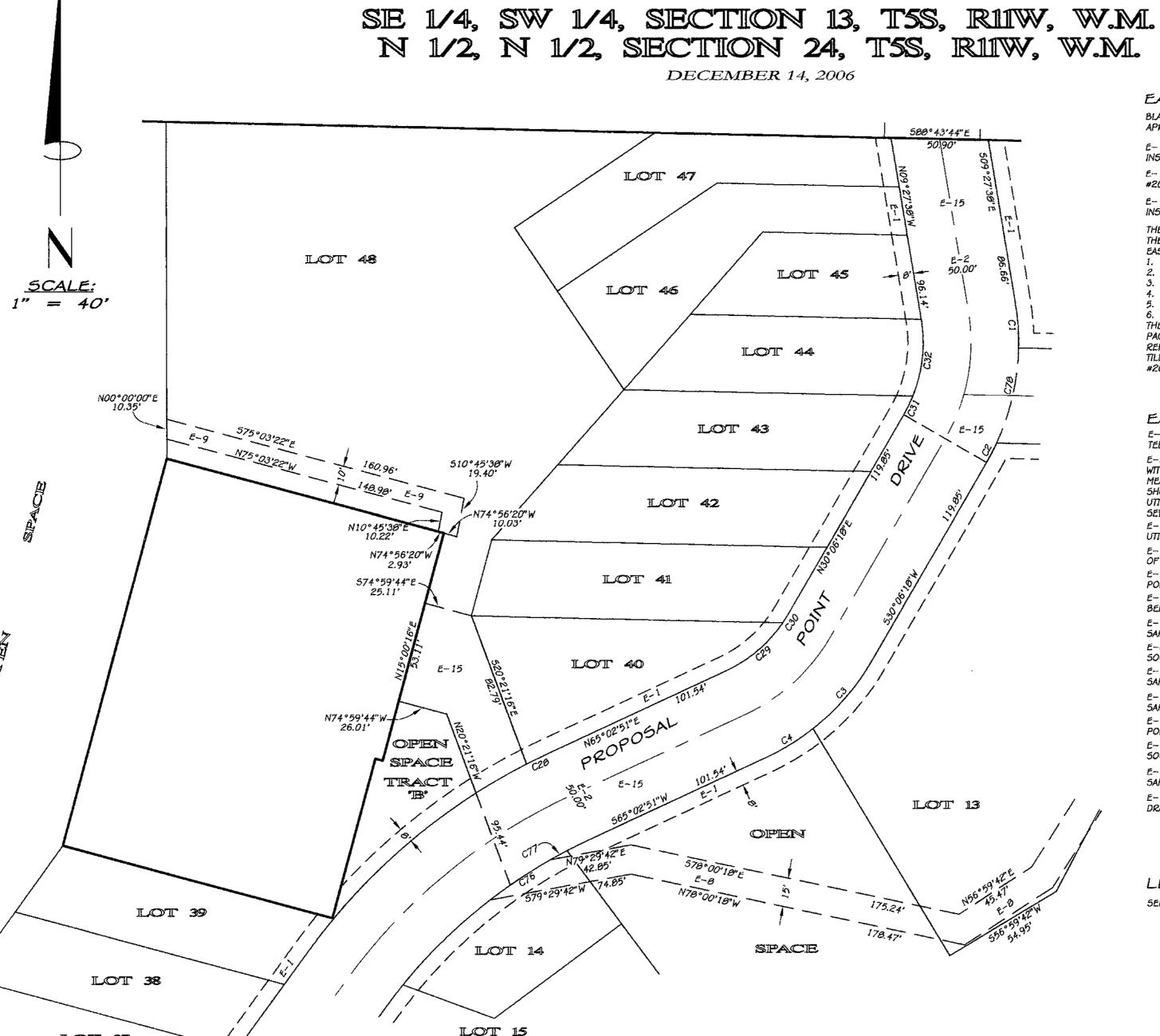
SHEET 6 of 11



LOT 37

SAHHALI SOUTH

SHEET 7 of 11



EASEMENTS OF RECORD

BLANKET RIGHT-OF-WAY EASEMENT TO THE PEOPLE'S UTILITY DISTRICT, RECORDED APRIL 20, 1971, IN BOOK 222, PAGE 912, TILLAMOOK COUNTY DEED RECORDS.

E-15 - VARIABLE WIDTH EASEMENT FOR INGRESS AND EGRESS AS DESCRIBED IN INSTRUMENT #2006-010736, TILLAMOOK COUNTY DEED RECORDS.

E-16 - VARIABLE WIDTH SANITARY SEWER EASEMENT AS DESCRIBED IN INSTRUMENT #2006-002727, TILLAMOOK COUNTY DEED RECORDS.

E-17 - VARIABLE WIDTH EASEMENT FOR INGRESS AND EGRESS AS DESCRIBED IN INSTRUMENT #2006-010735, TILLAMOOK COUNTY DEED RECORDS.

THE FOLLOWING EASEMENTS DO NOT CONTAIN CENTERLINE DESCRIPTIONS. THEREFORE WE ARE UNABLE TO DETERMINE THE EXACT LOCATION OF SAID

1. WATER LINE EASEMENT - BOOK 216, PAGE 373.

- 2. ACCESS EASEMENT BOOK 225, PAGE 777.
- WATER LINE EASEMENT BOOK 230, PAGE 677.
- WATER LINE EASEMENT AND AGREEMENT BOOK 236, PAGE 432. WATER LINE EASEMENT AND AGREEMENT - BOOK 236, PAGE 606.
- ACCESS EASEMENTS BOOK 442, PAGE 602.

THE ROADWAY EASEMENT RECORDED IN DEED BOOK 235, PAGE 613, BOOK 236, PAGE 783 AND BOOK 261, PAGE 709 OVER THE EXISTING ROADWAY HAS BEEN REPLACED BY THE ACCESS EASEMENT RECORDED IN INSTRUMENT #2006-010736, TILLAMOOK COUNTY DEED RECORDS, AS PER SECTION 2 AND 3, INSTRUMENT #2003-422921, TILLAMOOK COUNTY DEED RECORDS.

EASEMENTS CREATED BY THIS PLAT

E-1 - 8 FOOT WIDE NON-EXCLUSIVE UTILITY EASEMENT FOR POWER, CABLE, TELEPHONE, SEWER, ETC.

E-2 - VARYING WIDTH ROADWAY EASEMENT PROVIDED OVER ALL ROADS SHOWN WITHIN THIS PLAT FOR ACCESS BY PEDESTRIANS, VEHICLES, OR OTHER APPROPRIATE MEANS FOR THE USE OF THE OWNERS, RESIDENTS, AND GUESTS OF SAHHALI SHORES AT NESKOWIN CONSOLIDATED OWNERS ASSOCIATION, AND A NON-EXCLUSIVE UTILITY EASEMENT OVER ALL ROADWAYS SHOWN WITHIN THIS PLAT FOR SANITARY SEWER, WATER MAINS, UNDERGROUND POWER, TELECOMMUNICATIONS, ETC.

E-3 - A VARIABLE WIDTH NON-EXCLUSIVE ACCESS AND UTILITY EASEMENT FOR UTILITIES (POWER, CABLE, TELEPHONE, SEWER, ETC.) AND EMERGENCY SERVICES. E-4 - A VARIABLE WIDTH EASEMENT FOR INGRESS AND EGRESS FOR THE BENEFIT OF LOT 13.

E-5 - A VARIABLE WIDTH EASEMENT FOR STORM DRAINAGE PIPE AND SETTLING POND FOR THE BENEFIT OF THE SAHHALI SOUTH OWNERS ASSOCIATION.

E-6 - A VARIABLE WIDTH EASEMENT FOR INGRESS, EGRESS AND UTILITIES FOR THE BENEFIT OF SAHHALI SOUTH OWNERS ASSOCIATION. E-7 - AN EASEMENT FOR SANITARY SEWER TREATMENT PLANT FOR THE BENEFIT OF

SAHHALI SOUTH OWNERS ASSOCIATION. E-8 - A 15 FOOT WIDE EASEMENT FOR WATERLINE FOR THE BENEFIT OF SAHHALI SOUTH OWNERS ASSOCIATION.

E-9 - A 10 FOOT WIDE EASEMENT FOR STORM DRAINAGE FOR THE BENEFIT OF SAHHALI SOUTH OWNERS ASSOCIATION.

E-10 - A 15 FOOT WIDE NON-EXCLUSIVE UTILITY EASEMENT FOR THE BENEFIT OF SAHHALI SOUTH OWNERS ASSOCIATION.

E-11 - A VARIABLE WIDTH EASEMENT FOR STORM DRAINAGE PIPE AND SETTLING POND FOR THE BENEFIT OF THE SAHHALI SOUTH OWNERS ASSOCIATION.

E-12 - A 15 FOOT WIDE EASEMENT FOR WATERLINE FOR THE BENEFIT OF SAHHALI

E-13 - A 10 FOOT WIDE EASEMENT FOR STORM DRAINAGE FOR THE BENEFIT OF SAHHALI SOUTH OWNERS ASSOCIATION.

E-14 - A VARIABLE WIDTH NON-EXCLUSIVE UTILITY EASEMENT FOR STORM DRAINAGE FOR THE BENEFIT OF SAHHALI SOUTH OWNERS ASSOCIATION.

LEGEND

SEE SHEET 1 FOR LEGEND.



PACIFIC COUNTY

1715-B N. PACIFIC AVE. LONG BEACH, WA 90631 (360) 642-4454

FAX: (360) 642-4054

TILLAMOOK COUNTY

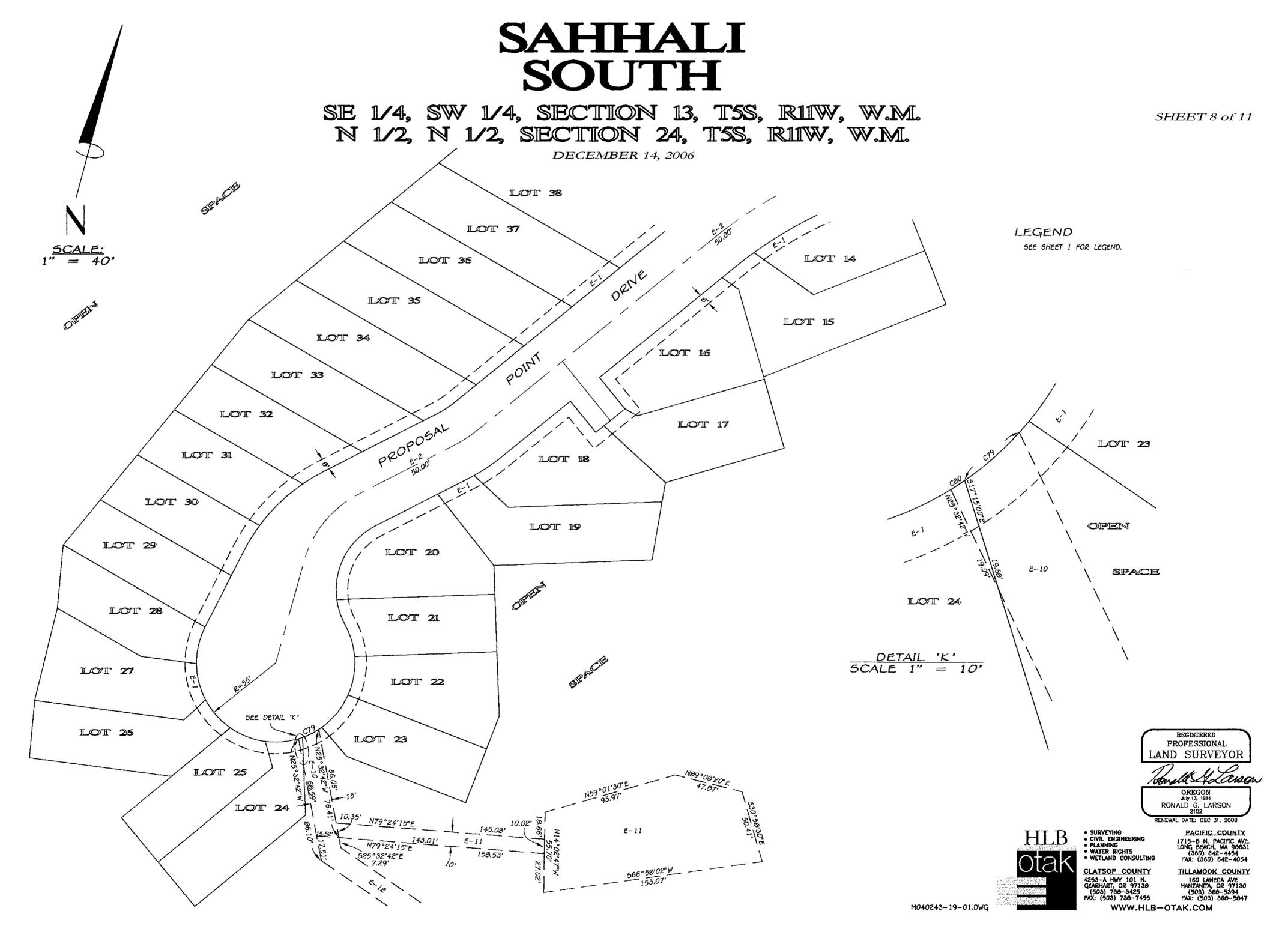


• SURVEYING • CIVIL ENGINEERING • PLANNING • WATER RIGHTS . WETLAND CONSULTING CLATSOP COUNTY

4253-A HWY 101 N. GEARHART, OR 97138 (503) 730-3425 FAX: (503) 730-7455 WWW.HLB-OTAK.COM

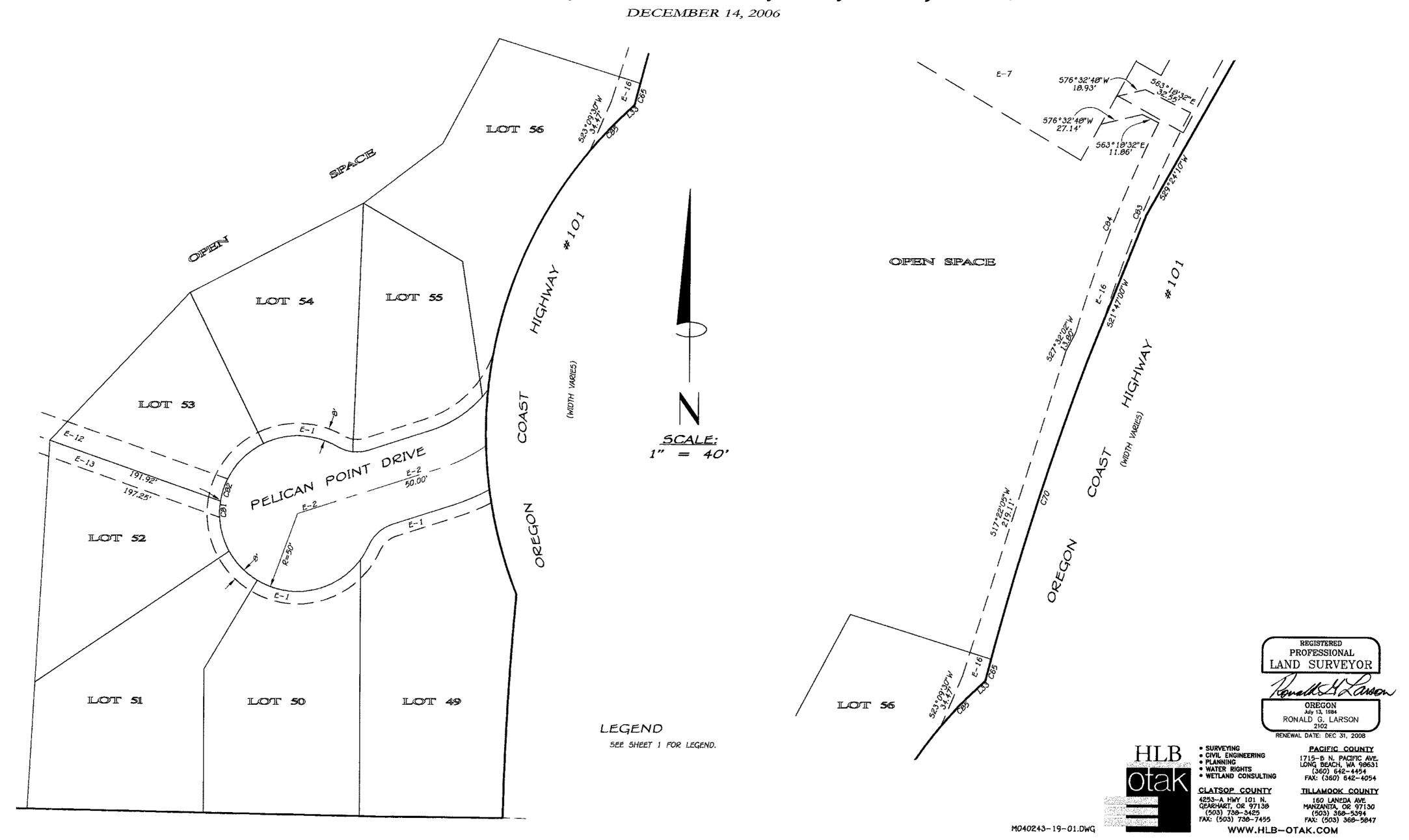
160 LANEDA AVE MANZANITA, OR 97130 (503) 360-5394 FAX: (503) 369-5847

M040243-19-01.DWG



SE 1/4, SW 1/4, SECTION 13, T5S, R11W, W.M. N 1/2, N 1/2, SECTION 24, T5S, R11W, W.M.

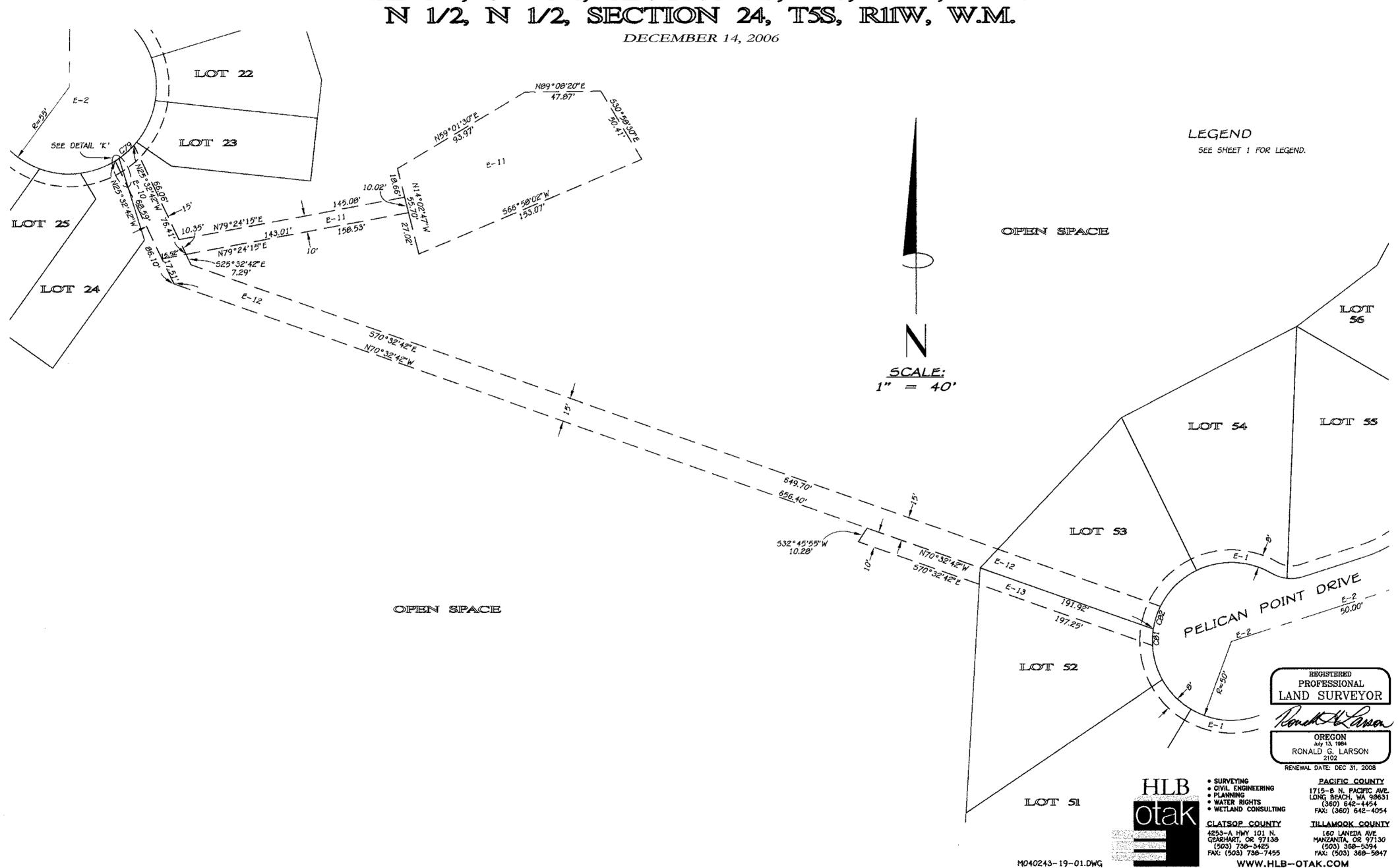
SHEET 9 of 11



SAHHALI SOUTH

SE 1/4, SW 1/4, SECTION 13, T5S, R11W, W.M. N 1/2, N 1/2, SECTION 24, T5S, R11W, W.M.

SHEET 10 of 11



SAHHALI SOUTH

SE 1/4, SW 1/4, SECTION 13, T5S, R11W, W.M. N 1/2, N 1/2, SECTION 24, T5S, R11W, W.M.

DECEMBER 14, 2006

SHEET 11 of 11

SURVEYOR'S CERTIFICATE

I, RONALD G. LARSON, CERTIFY THAT:

I HAVE CORRECTLY SURVEYED AND MARKED WITH PROPER MONUMENTS, THE LAND REPRESENTED ON THE ATTACHED PARTITION MAP, THE BOUNDARIES OF WHICH ARE DESCRIBED AS FOLLOWS:

A TRACT OF LAND LOCATED IN GOVERNMENT LOT 20 IN THE SOUTHEAST ONE—QUARTER OF THE SOUTHWEST ONE—QUARTER OF SECTION 13, AND GOVERNMENT LOTS 2, 3, 4 AND 5 LOCATED IN THE NORTH ONE—HALF OF THE NORTH ONE—HALF OF SECTION 24, TOWNSHIP 5 SOUTH, RANGE 11 WEST, OF THE WILLAMETTE MERIDIAN, TILLAMOOK COUNTY, OREGON, FURTHER DESCRIBED AS FOLLOWS:

BEGINNING AT THE EAST ONE—SIXTEENTH CORNER ON THE NORTH LINE OF SAID SECTION 24, SAID POINT BEING MARKED BY A 5/0" IRON ROD, SAID POINT ALSO BEING THE INITIAL POINT; THENCE SOUTH 80°44'45" EAST 549.60 FEET ALONG THE NORTH LINE OF SAID SECTION 24 TO THE WEST RIGHT—OF—WAY LINE OF THE RELOCATED OREGON COAST HIGHWAY #101, SAID POINT BEING MARKED BY A 5/0" REBAR WITH PLASTIC CAP STAMPED "HLB & ASSOC INC"; THENCE ALONG THE WESTERLY RIGHT—OF—WAY LINE OF THE RELOCATED OREGON COAST HIGHWAY #101 THE FOLLOWING COURSES AND DISTANCES:

THENCE SOUTH 27°53'33" WEST 237.54 FEET TO THE BEGINNING OF A SPIRAL CURVE SAID POINT BEING MARKED BY A 1" ALUMINUM CAP STAMPED "OREGON STATE HIGHWAY DIVISION"; THENCE ALONG SAID SPIRAL CURVE, THE CHORD OF WHICH BEARS SOUTH 27°47'32" WEST 105.54 FEET TO A 1" ALUMINUM CAP STAMPED "OREGON STATE HIGHWAY DIVISION"; THENCE SOUTH 29°24'10" WEST 310.27 FEET TO THE BEGINNING OF A SPIRAL CURVE, SAID POINT BEING MARKED BY A 1" ALUMINUM CAP STAMPED "OREGON STATE HIGHWAY DIVISION"; THENCE ALONG SAID SPIRAL CURVE, THE CHORD OF WHICH BEARS SOUTH 21°47'00" WEST 100.99 FEET TO A 1" ALUMINUM CAP STAMPED "OREGON STATE HIGHWAY DIVISION", SAID POINT BEING THE BEGINNING OF A NON-TANGENT 2048.24 FOOT RADIUS CURVE TO THE LEFT. THE RADIUS OF WHICH BEARS SOUTH 69°34'26" EAST;

THENCE ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 6°02'10" (THE LONG CHORD BEARS SOUTH 17°24'29" WEST 215.69 FEET) AN ARC DISTANCE OF 215.79 FEET TO THE NORTHWEST RIGHT-OF-WAY LINE OF OLD HIGHWAY #101, SAID POINT BEING MARKED BY A 5/8" REBAR WITH PLASTIC CAP STAMPED "HLB & ASSOC INC";

THENCE LEAVING THE WEST RIGHT-OF-WAY LINE OF THE RELOCATED OREGON COAST HIGHWAY #101, SOUTH 47°03'20" WEST 6.36 FEET ALONG THE NORTHWEST RIGHT-OF-WAY LINE OF OLD HIGHWAY #101, TO THE BEGINNING OF A TANGENT 201.35 FOOT RADIUS CURVE TO THE LEFT, SAID POINT BEING MARKED BY A 5/0" REBAR WITH PLASTIC CAP STAMPED "HLB & ASSOC INC"; THENCE ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 60°47'17" (THE LONG CHORD BEARS SOUTH 12°39'49" WEST 317.06 FEET) AN ARC DISTANCE OF 337.70 FEET TO THE WEST RIGHT-OF-WAY LINE OF THE RELOCATED OREGON COAST HIGHWAY #101, SAID POINT BEING THE BEGINNING OF A 2060.24 FOOT RADIUS NON-TANGENT CURVE TO THE LEFT, THE RADIAL LINE OF WHICH BEARS SOUTH 04°42'29" EAST, SAID POINT ALSO BEING MARKED BY A 5/0" REBAR WITH PLASTIC CAP STAMPED "HLB & ASSOC INC";

THENCE ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 3°50'32" (THE LONG CHORD BEARS SOUTH 3'10'15" WEST 143.40 FEET) AN ARC DISTANCE OF 143.51 FEET TO THE SOUTH LINE OF GOVERNMENT LOT 2, SAID POINT BEING MARKED BY A 5/0" REBAR WITH PLASTIC CAP

STAMPED "HLB & ASSOC INC";
THENCE NORTH 89°41'04" WEST 76.60 FEET ALONG THE SOUTH LINE OF SAID GOVERNMENT LOT
2 TO THE SOUTHWEST CORNER THEREOF, SAID POINT BEING MARKED BY A 3" BRASS DISK IN
CONCRETE STAMPED "COUT LOTS 2 3 14 15 15 703".

CONCRETE STAMPED "GOVT LOTS 2, 3, 14, 15 L5 793";
THENCE NORTH 88°54'34" WEST 1305.69 FEET ALONG THE SOUTH LINE OF GOVERNMENT LOTS
3 AND 4 TO THE SOUTHWEST OF CORNER OF SAID GOVERNMENT LOT 4, SAID POINT BEING
MARKED BY A 5/8" REBAR WITH PLASTIC CAP STAMPED "HLB & ASSOC INC";

THENCE NORTH 1°00'05" EAST 511.02 FEET ALONG THE WEST LINE OF SAID GOVERNMENT LOT 4 TO A 5/0" REBAR WITH PLASTIC CAP STAMPED "HLB & ASSOC INC"; THENCE NORTH 09°59'40" WEST 657.66 FEET TO A 5/0" REBAR WITH PLASTIC CAP STAMPED

"A. DUNCAN L5 793"; THENCE NORTH 89°59'48" WEST 200 FEET, MORE OR LESS, TO THE WEST LINE OF SAID GOVERNMENT LOT 5;

THENCE NORTHERLY ALONG THE WEST LINE OF SAID GOVERNMENT LOT 5 AND THE WEST LINE OF SAID GOVERNMENT LOT 28, 2200 FEET, MORE OR LESS, TO THE NORTHWEST CORNER OF SAID GÖVERNMENT LOT 28;

THENCE SOUTH 80°42'09" EAST 100 FEET, MORE OR LESS, ALONG THE NORTH LINE OF SAID GOVERNMENT LOT 28 TO A 5/8" REBAR WITH PLASTIC CAP STAMPED "HLB & ASSOC INC"; THENCE SOUTH 80°42'09" EAST 375.04 FEET ALONG THE NORTH LINE OF SAID GOVERNMENT LOT 28 TO THE NORTHEAST CORNER THEREOF, SAID POINT BEING MARKED BY A 5/8" IRON ROD; THENCE SOUTH 0°35'00" WEST 1319.03 FEET ALONG THE EAST LINE OF SAID GOVERNMENT LOT 28 TO THE SOUTHEAST CORNER THEREOF, SAID POINT BEING ON THE NORTH LINE OF SECTION 24, SAID POINT ALSO BEING MARKED BY A 5/8" IRON ROD;

74, SAID POINT ALSO BEING MARKED BY A 578 IRON ROD;
THENCE SOUTH 00°43'44" EAST 1306.65 FEET ALONG THE NORTH LINE OF SAID SECTION 24 TO THE INITIAL POINT.

LESS AND EXCEPTING THAT TRACT OF LAND AS DESCRIBED IN INSTRUMENT #2003-424901, FURTHER DESCRIBED AS FOLLOWS:

BEGINNING AT A 3/4" IRON PIPE WHICH IS SOUTH 199.60 FEET AND WEST 546.07 FEET FROM THE EAST ONE—SIXTEENTH CORNER ON THE NORTH LINE OF SECTION 24, TOWNSHIP 5 SOUTH, RANGE 11 WEST OF THE WILLAMETTE MERIDIAN:

THENCE SOUTH 15°00'16" WEST 123.35 FEET;
THENCE NORTH 75°04'43" WEST 4.01 FEET;
THENCE SOUTH 15°03'00" WEST 86 40 FEET.

THENCE SOUTH 15°03'09" WEST 86.40 FEET; THENCE NORTH 74°56'20" WEST 146.00 FEET; THENCE NORTH 15°01'26" EAST 209.72 FEET:

THENCE SOUTH 74°57'09" EAST 60.49 FEET TO A 3/4" IRON PIPE;

THENCE CONTINUING SOUTH 74°57'09" EAST 09.51 FEET TO THE POINT OF BEGINNING.

CONDITIONS & RESTRICTIONS

SEE INSTRUMENT # 2007-00/038 , TILLAMOOK COUNTY DEED RECORDS FOR DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS, FOR SAHHALI SOUTH.

CONDITIONS AND RESTRICTIONS FROM THE OREGON DEPARTMENT OF FISH AND WILDLIFE STATING: THIS PROPERTY IS IN AN AREA OF KNOWN BIG GAME AND FUR BEARER ANIMAL USE. ANY AND ALL PRESENT AND FUTURE OWNERS OF THIS PROPERTY WAIVE ANY CLAIM THEY MAY HAVE AGAINST THE OREGON DEPARTMENT OF FISH AND WILDLIFE FOR ANY DAMAGE AND/OR INCONVENIENCE CAUSED BY THESE ANIMALS TO SUCH PERSONS OR THEIR REAL PROPERTY,

AND/OR PERSONAL PROPERTY.
THIS AGREEMENT CANNOT BE DELETED OR ALTERED WITHOUT PRIOR CONTACT AND AGREEMENT BY THE OREGON DEPARTMENT OF FISH AND WILDLIFE.

MONUMENT NOTES

- 7 FOUND 1-1/2" IRON PIPE WITH 3" BRASS CAP, 0.20' ABOVE THE GROUND, SET TO BE CS 1/16 CORNER SECTION 13, SEE MAP B-574, AND REWITNESSED BY COUNTY SURVEYOR IN 1991, SEE REWITNESS BOOK #7 PAGE 52, TILLAMOOK COUNTY SURVEY RECORDS.
- B FOUND COUNTY SURVEYOR'S 3" BRASS CAP IN CONCRETE SET IN RED CLAY PIPE AND STAMPED "1/4 513/524 RS 207 1974", SEE REWITNESS BIN #940.
- 25) FOUND COUNTY SURVEYOR'S 3" BRASS CAP IN CONCRETE SET IN RED CLAY PIPE, STAMPED "55 11 55 10 13 10 24 19 R5 207 1974", SET AS SECTION CORNER, SEE REWITNESS BIN #941, TILLAMOOK COUNTY SURVEY RECORDS, HELD FOR BASIS OF BEARING.
- 34 FOUND 5/8" REBAR WITH YELLOW PLASTIC CAP STAMPED "PLS 1425", 0.2' ABOVE THE GROUND, 0.45 SOUTH AND 3.50' EAST OF CALCULATED NORTHWEST CORNER, SEE MAP 8-1241, TILLAMOOK COUNTY SURVEY RECORDS.
- FOUND 5/8" IRON ROD, FLUSH TO GROUND, SET AS EAST 1/16 CORNER SECTION 13, SEE MAP 8-574, TILLAMOOK COUNTY SURVEY RECORDS, HELD FOR BASIS OF BEARING.
- 63 FOUND 5/8" REBAR WITH PLASTIC CAP STAMPED "A. DUNCAN LS 793", 0.4' ABOVE GROUND. HELD FOR POSITION, SEE MAP 8-2708, TILLAMOOK COUNTY SURVEY
- 64 FOUND 5/8" REBAR WITH PLASTIC CAP STAMPED "A. DUNCAN LS 793", 0.4' BELOW GROUND. HELD FOR POSITION, SEE MAP B-2708, TILLAMOOK COUNTY SURVEY PERCOPUS
- (258) FOUND 3" BRASS CAP IN CONCRETE STAMPED "GVMT LOTS 2 3 14 15 LS 793 1988". HELD FOR POSITION. SEE REWITNESS BIN #924, TILLAMOOK COUNTY SURVEY PEROPOS
- (2960) FOUND 5/8" REBAR WITH PLASTIC CAP STAMPED "A. DUNCAN LS 793", 0.6' ABOVE GROUND. HELD FOR POSITION, SEE MAP A-7813, TILLAMOOK COUNTY SURVEY RECORDS.
- (2961) FOUND 5/8" REBAR WITH PLASTIC CAP STAMPED "A. DUNCAN LS 793", 0.3' ABOVE GROUND. HELD FOR POSITION, SEE MAP A-7813, TILLAMOOK COUNTY SURVEY RECORDS.
- (2962) FOUND 5/8" REBAR WITH PLASTIC CAP STAMPED "A. DUNCAN LS 793", 0.3' ABOVE.
 GROUND. HELD FOR POSITION, SEE MAP A-7813, TILLAMOOK COUNTY SURVEY RECORDS.
- (2969) FOUND 5/8" REBAR WITH PLASTIC CAP STAMPED "A. DUNCAN LS 793", 0.3' ABOVE GROUND. HELD FOR POSITION, SEE MAP A-7813, TILLAMOOK COUNTY SURVEY RECORDS.
- (3163) SET 5/8" X 40" REBAR WITH PLASTIC CAP STAMPED "HLB & ASSOC INC" TO REPLACE PREVIOUSLY TIED 5/8" REBAR WITH PLASTIC CAP STAMPED "A. DUNCAN LS 793" INSIDE 3/4" IRON PIPE, 0.3' ABOVE GROUND. HELD FOR POSITION, SEE MAP A-7813 & A-2242, TILLAMOOK COUNTY SURVEY RECORDS.
- (3164) FOUND 3/4" IRON PIPE, 0.4' ABOVE GROUND. HELD FOR POSITION, SEE MAP A-2242, TILLAMOOK COUNTY SURVEY RECORDS.

I CERTIFY THAT THIS MAP WAS PREPARED USING HP PRODUCT #51640A INK

RONALD G. LARSON, PLS 2102

ACKNOWLEDGMENT

STATE OF OREGON > COUNTY OF TILLAMOOK >

THIS INSTRUMENT WAS ACKNOWLEDGED BEFORE ME
ON December 14 , 2006, BY
TIMOTHY D. HOVET AS VICE PRESIDENT OF SYCAN B CORP.,
MANAGING MEMBER OF SAHHALI SOUTH, LLC.

Hanen X Jonemy NOTARY'S SIGNATURE

13-14-06 DATE

Karen K Lorenz PRINTED NAME OF NOTARY PUBLIC

NOTARY PUBLIC - OREGON COMMISSION NO.: 363671

MY COMMISSION EXPIRES ON THE _____ DAY

OF Ganuary, 2007

DATE FEB 1 6 2007



DECLARATION

TIMOTHY D. HOVET VICE PRESIDENT, SYCAN B CORP.
MANAGING MEMBER, SAHHALI SOUTH, LLC

APPROVAL5

5TATE OF OREGON > >5.5.
COUNTY OF TILLAMOOK >

EXAMINED AND APPROVED BY THE FOLLOWING:

Danny R. Mc Null 12/22/206 COUNTY SURVEYOR DATE COUNTY COMMISSIONER, Laula J. Outle, Dage of 2-15-07 COUNTY ASSESSOR

ONTE COUNTY COMMISSIONER

TAXES ARE PAID IN FULL TO JUNE 30, 2007.

COUNTY COMMISSIONER

COUNTY COMMISSIONER

COUNTY TAX COLLECTOR OPEN OF CHAIRMAN

COUNTY TAX COLLECTOR OPEN OF CHAIRMAN

CERTIFICATE OF COUNTY CLERK

>5.5.

STATE OF OREGON

COUNTY OF TILLAMOOK

I HEREBY CERTIFY THAT THIS PLAT WAS RECEIVED FOR RECORD ON THE 16th DAY OF FEBRUARY, 2007 AND RECORDED IN PLAT CABINET B-787-0, TILLAMOOK COUNTY RECORDS, AS INSTRUMENT NO. 2007-1312

5.**5**.

BY: Munson, Cophynt TASSI OVEIL, COUNTY CLERK

STATE OF OREGON

COUNTY OF TILLAMOOK

I, TASSI O'NEIL, DO HEREBY CERTIFY THAT I AM THE QUALIFIED CLERK OF TILLAMOOK COUNTY, OREGON AND THAT THIS COPY IS THE FULL, COMPLETE AND TRUE COPY OF THE ORIGINAL PLAT OF SAME, AS RECORDED IN PLAT CABINET B-982-0 OF PLAT RECORDS OF TILLAMOOK COUNTY, OREGON RECORDED FOLDMAN 16, 2007 AS INSTRUMENT NO. 2007-1312.

TASSI D'NEIL, COUNTY CLERK, CY Ruty

I, RONALD G. LARSON, DO HEREBY CERTIFY THAT THIS IS A FULL, COMPLETE AND TRUE COPY OF THE ORIGINAL PLAT AS REFERENCED ABOVE.

RONALD G. LARSON, PLS 2102

otak

SURVEYING
 CIVIL ENGINEERING
 PLANNING
 WATER RIGHTS
 WETLAND CONSULTING

CLATSOP COUNTY 4253-A HWY 101 N. GEARHART, OR 97130 (503) 730-3425 FAX: (503) 730-7455

WWW.HLB-OTAK.COM

TILLAMOOK COUNTY PLANNING COMMISSION

M040243-19-01.0WG

PACIFIC COUNTY

1715-B N. PACIFIC AVE. LONG BEACH, WA 98631 BASIS OF BEARING

GOVT

SP

LOT 29

THE LINE BETWEEN THE FOUND MOUNTENTS (43) AND (25) AS SHOWN HEREON BEARS SOUTH 88°44°45° EAST, THE RECORD VALUE FROM MAP C-393, TILLAMOOK COUNTY SURVEY RECORDS.

GOVT

PARCEL 1

160.96

148.98

t-2

PARCEL 2

- 575°03°22°6 - 775°03°22°6 - 775°03°22°7

INSTRUMENT #2003-424981 SEE MAPS A-2242 & A-7813 TILLAMOOK COUNTY SURVEY
RECORDS

FASFMENT

LINE TABLE

LINE BEARING LENGTH
L1 574-59-44-E 25.11L2 N00-00-00-E 10.35L3 510-45-38-W 19.40-

L4 N74*56'20"W 7.10" L5 N74*56'20"W 2.93'

L6 N10*45'38"E 10.22"

EASEMENT MAP

50'

LOT 30

LOI

47

LOT 41

PROPOSAL

DRIVE

TOT 40

SATHIHIALI

SOUTH

LOT

46

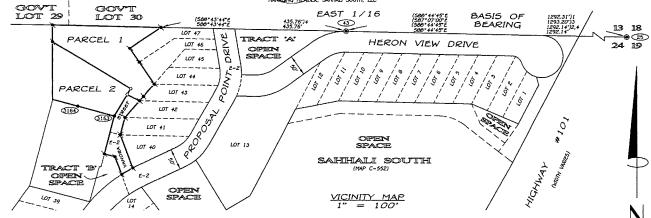
DECLARATION

KNOW ALL PEOPLE BY THESE PRESENTS THAT SAHALI SOUTH, LLC, A LIMITED LIABILITY COMPANY IS THE OWNER OF THE LAND REPRESENTED ON THE ANNEXED MAP AND MORE PARTICULARLY DESCRIBED IN THE ACCOMPANYING SURVEYOR'S CERTIFICATE AND HAS CAUSED THE SAME TO BE SURVEYED AND PARTITIONED INTO TWO PARCELS AS SHOWN PARTICULARLY DESCRIBED IN THE ACCOMPANNING SURVEYOR'S EXEMITARIE AND HAS CUSSED THE SHAPE TO BE SURVEYED AND PARTICULAR WITH TWO PARCELS AS SHOWN HEREON.

DECLARANT DOES HEREBY CREATE AND GRAIN PASCHENTS E-4 AND E-5 AS SHOWN HEREON FOR THE BUSINESS PROPERTY. I NOT PRECEL 2.

THOTHY D. HOTE, VICE PRESIDENT, STOWN B CORP.

NACING MEMBER, SAHHALI SOUTH, LLC



חרכים זו

45

LOT 44

EASEMENTS OF RECORD

E-1 - AN E-0 FOOT WIDE NON-EXCLUSIVE UTILITY EASEMENT FOR POWER, CABLE TELEPHONE, SEWER, ETC. SEE EASEMENT E-1 ON THE PLAT OF SAHHALI SOUTH (MAP C-552), TILLAMOOK COUNTY PLAT RECORDS.

C-2 — A VARIABLE WIDTH CASEMENT FOR INCRESS AND EGGESS AS DESCRIBED IN INSTRUMENT *ZOOGO-01073S, TILLAMONC COUNTY DIED RECORDS. SEE EASEMENT E-15 ON THE PLAT OF SAMMAL SOUTH (MAP C-552), TILLAMONC COUNTY PLAT RECORDS.

E-3 - A 10.0 FOOT WIDE EASEMENT FOR STORM DRAINAGE FOR THE BENEFIT OF SAHHALI SOUTH OWNERS ASSOCIATION, SEE EASEMENT E-9 ON THE PLAT OF SAHHALI SOUTH (MAP C-552) TILLAMOOK COUNTY PLAT RECORDS

EASEMENTS CREATED BY THIS PLAT

E-4 - AN 8.0 FOOT WIDE NON-EXCLUSIVE UTILITY EASEMENT INCLUDING, BUT NOT LIMITED TO POWER, CABLE TV, TELEPHONE, SEWER, STORM DRAINAGE, AND WATER SERVICES.

E-5 - A VARIABLE WIDTH ROADWAY EASEMENT PROVIDED OVER VANORA STREET FOR ACCES BY PECESTRAINS, VEHICLES, OR OTHER APPROPRIETE HAMS FOR THE USE OF THE OWNERS, RESIDENTS, AND QUESTS OF SHIFMLY SOLTH HOME.

OWNERS ASSOCIATION, AND A NON-EXCLUSIVE VILITY EXSEMENT OWER SAID STREET FOR SAINTARY SEWER, WATER MAINS, UNDERGROUND POWER, TELECOMMUNICATIONS, ETC.

APPROVALS

APPROVED THIS 9TH DAY OF FEBRUARY, 2009/9

Danny R Mc NATO

TAXES HAVE BEEN PAID IN FULL TO JUNE 30, 2009.

Clarga Chimoruna Taputy 19/09

Recorded 2/16/09

SURVEYOR'S CERTIFICATE

I, DALE N. BARRETT, CERTIFY THAT: I HAVE CORRECTLY SURVEYED AND MARKED WITH PROPER MONUMENTS THE LAND REPRESENTED ON THIS PARTITION MAP.

THE BOUNDARIES OF WHICH ARE DESCRIBED AS FOLLOWS:

LOT 48. SAHHALI SOUTH (MAP C-552). TILLAMOOK COUNTY PLAT RECORDS.

INITIAL POINT IS 5/8" REBAR WITH PLASTIC CAP STAMPED "HLB & ASSOC INC" AT THE MOST SOUTHERLY POINT OF LOT 48.

I FURTHER CERTIFY THAT THIS MAP WAS PREPARED USING HP PRODUCT #51640A

ACKNOWLEDGMENT

STATE OF CRESON > 5.5. COUNTY OF LANE \$

THIS INSTRUMENT WAS ACKNOWLEDGED BEFORE ME ON 12-31 BY TIMOTHY D. HOVET AS VICE PRESIDENT OF SYCAN B CORP., MANAGING MEMBER OF SAHHALI SOUTH, LLC.

12-31-2008

Whitney Landes NOTARY'S SIGNATURE)
Whithey The Landes
PRINTED HAVE BY NOTARY PUBLICES

NOTARY PUBLIC - _OR COMMISSION NO.: 388695

MY COMMISSION EXPIRES: OZ-61-3009 FEBRUARY 01, 2009

CERTIFICATE OF COUNTY CLERK

STATE OF OREGON

> 5.5.

COUNTY OF TILLAMOOK

I, TASSI O'NEIL, DO HEREBY CERTIFY THAT THIS PARTITION PLAT HAS RECEIVED FOR RECORD ON THE 10 Day of <u>Schalary</u>, 2008 and recorded as partition Plat records, as instrument no. 1009-0 Tillamook county plat records, as instrument no. 1009-0.009750.

BY: [LEGGRET COUNT CLERK, Deputy

I, TASSI O'NEIL, DO HEREBY CERTIFY THAT I AM THE QUALIFIED CLERK OF TILLMOOK COUNTY, GREGON AND THAT THIS COPY OF PARTITION PLAT NO. 20.01-19 is the full complete and true copy of the original plat of same, as recorded in Plat Chariet is , 10.01 in Plat Chariet is , 10.01 in Caron plat records of tillmook, county, greecom RECORDED FEBRUARY 10 .. 2009, AS INSTRUMENT NO. 2009 - 0009 50

been Marshall Deputy TASSI O'NEIL COUNTY CLERK

I. DALE N. BARRETT, DO HEREBY CERTURY THAT THIS IS A FULL, COMPLETE AND TRUE COPY OF THE ORIGINAL PLAT AS REFERENCED ABOVE.

2009-4

PARTITION PLAT FOR:

DALE N. BARRETT, PLS 1979

SHEET 2 OF 2 PECISIEPED LAND SURVEYOR alul Butt DALE N. BARRETT

HLB otak

3002W/RANGER

PARTITION PLAT NO. CLATSOP COUNTY 4253-A HWY 101 N. CEARHART, OR 97136

1715-B N. PACIFIC AVE. LONG BEACH, WA 98631 (360) 642-4454 FAX: (360) 642-4054 TILLAMOOK COUNTY 160 LANEDA AVE HANZANTA, OR 97130 (503) 368-5394 FAX: (503) 368-5847 WWW.HLB-OTAK.COM

50W

SAHHALI SOUTH, LLC

LOT 48 SAHHALI SOUTH

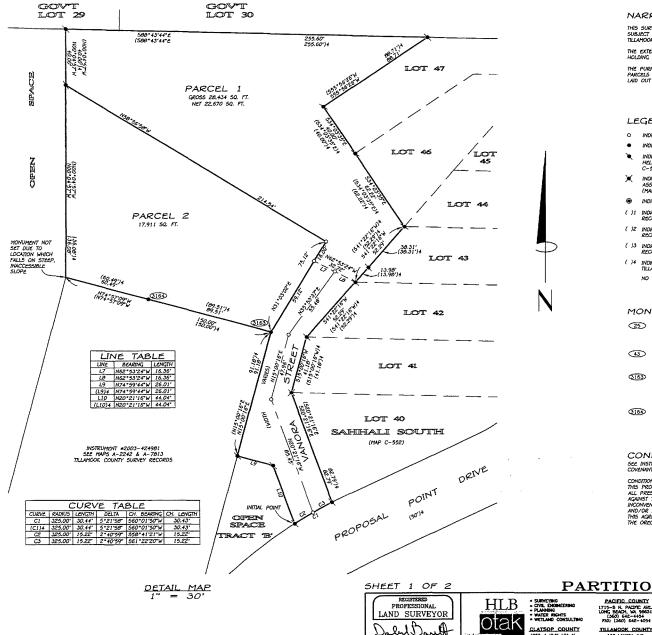
NW 1/4, NE 1/4, SEC. 24, T55, R11W, W.M. TILLAMOOK COUNTY, OREGON



OCT 15, 2006

(503) 738-3425 FAX: (503) 738-7455

SOW/WML



DALE N. BARRETT

60778

3002W/RANGER

"STRAW" #A2004 DATE 5778Y135,0WG OCT 15, 2008

NARRATIVE

THIS SURVEY WAS CONDUCTED AS A DEPENDENT RESURVEY AND REPLAT OF THE SUBJECT PROPERTY DESCRIBED AS LOT 49, SAHMALI SOUTH (MAP C-952), TILLAMONC COUNTY PLAT RECORDS.

THE EXTERIOR BOUNDARY OF THE SUBJECT PROPERTY WAS DETERMINED BY HOLDING FOUND ORIGINAL MONUMENTS FROM SAID PLAT OF SAHHALI SOUTH.

THE PURPOSE OF THIS SURVEY IS TO PARTITION THE SUBJECT PROPERTY INTO TWO PARCELS AND CREATE VANDRA STREET AS SHOWN HEREON. THE PARCELS WERE LAID OUT AS PER THE CLIENT'S REQUEST.

LEGEND

- O INDICATES SET 5/8" X 40" REBAR WITH PLASTIC CAP STAMPED "HLB OTAK INC".
- INDICATES MONUMENT FOUND AS NOTED HEREON.
- INDICATES FOUND 5/8" REBAR WITH PLASTIC CAP STAMPED "HLB & ASSOC INC. HELD AS AN ORIGINAL MONUTENT PROM THE PLAT OF SAHMUL SOUTH (MAP C-552), TILLAMOOK COUNTY PLAT RECORDS.
- INDICATES FOUND BRASS TACK WITH BRASS WASHER STAMPED "HLB AND ASSOC". HELD AS AN OREGINAL HONUMENT FROM THE PLAT OF SAHMALI SOUTH (MAP C-952), TILLAMOOK COUNTY PLAT RECORDS.
- INDICATES MONUMENT FOUND AS NOTED HEREON, USED FOR CONTROL.
- ()1 INDICATES RECORD VALUE FROM MAP C-393, TILLAMOOK COUNTY SURVEY RECORDS.
- ()2 INDICATES RECORD VALUE FROM MAP C-490, TILLAMOOK COUNTY SURVEY RECORDS.
- ()3 INDICATES RECORD VALUE FROM MAP 8-574, TILLAMOOK COUNTY SURVEY
- ()4 INDICATES RECORD VALUE FROM THE PLAT OF SAHHALI SOUTH (MAP C-552), TILLAMOOK COUNTY PLAT RECORDS.

NO () INDICATES MEASURED VALUE.

MONUMENT NOTES

- (25) FOUND COUNTY SURVEYOR'S 3" BRASS CAP IN CONCRETE SET IN RED CLAY PIPE, STAMPED "55 II 55 IO 13 IB 24 I9 E5 287 1974", SET AS SECTION CORNER, SEE REMINESS BIN #941, TILLAMOOK COUNTY SURVEY RECORDS, HELD FOR BASIS OF BEARING.
- (43) FOUND 5/8" IRON ROD, FLUSH TO GROUND, SET AS EAST 1/16 CORNER SECTION 13, SEE MAP 8-574, TILLAMOOK COUNTY SURVEY RECORDS. HELD FOR BASIS OF BEARING.
- TIES FOUND 5/6" REBAR WITH PLASTIC CAP STAMPED "HIS & ASSOC INC.
 SET AS A SEPLICEMENT OF PREVIOUSLY TIED 5/6" REBAR WITH PLASTIC
 CAP STAMPED "A DUNCAN IS 739" INDIC 5/4" REDAR WITH PLASTIC
 CAP STAMPED TO THE PLAST OF SAMPALI SOUTH (MAP C –552), TILLAMOOK
 COUNTY PLAT RECORDS.
- (\$154) FOUND 3/4" IRON PIPE, 0.4" ABOVE GROUND, HELD FOR POSITION, SEE MAP A-2242, TILLAMOOK COUNTY SURVEY RECORDS.

CONDITIONS & RESTRICTIONS

SEE INSTRUMENT #2007-001038, TILLAMOOK COUNTY DEED RECORDS FOR DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS, FOR SAHHALI SOUTH.

CONDITIONS AND RESTRICTIONS FROM THE OREGON DEPARTMENT OF FISH AND WILDLIFE STATING. THIS PROPERTY IS IN AN AREA OF KNOWN BIG GAME AND FUR BEARER ANIMAL USE. ANY AND ALL PRESENT AND FUTURE OHNESS OF THIS PROPERTY MAY ANY CLAM THEY MAY HAVE AGAINST THE DREGON DEPARTMENT OF FISH AND WILDLIFE FOR ANY DAMAGE AND/OR INCOMMENDED CAUSED BY THESE ANDWALLS TO SUCH PERSONS OR THEIR REAL PROPERTY, AND/OR PRESONUL PROPERTY.

AND/OR PRESONUL PROPERTY.

THIS AGREEMENT CHANCE BE DELETED OR ATTREED WITHOUT PRIOR CONTACT AND AGREEMENT BY THE OREGON DEPARTMENT OF FISH AND WILDLIFE.

PARTITION PLAT NO.

PARTITION PLAT FOR: PACIFIC COUNTY

180 LANCIA AVE MANIANTA, OR 97130 (903) 368-5394 FAX: (503) 368-5647

WWW.HLB-OTAK.COM

SDW

SDW/WML

SAHHALI SOUTH, LLC

LOT 48 SAHHALI SOUTH

NW 1/4, NE 1/4, SEC. 24, T55, R11W, W.M. TILLAMOOK COUNTY, OREGON

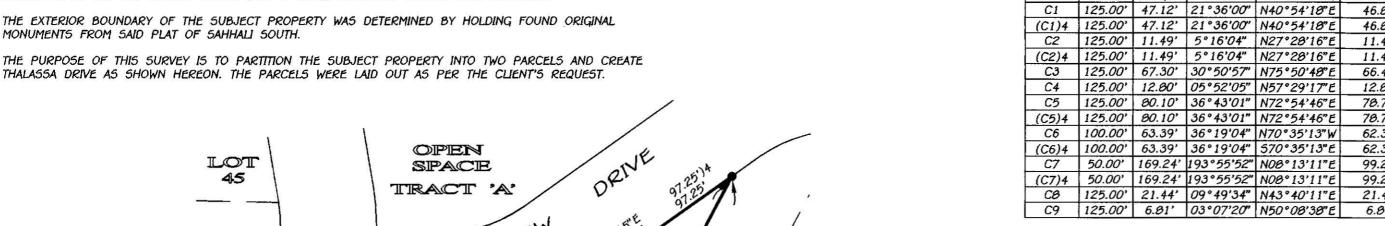


NARRATIVE

THIS SURVEY WAS CONDUCTED AS A DEPENDENT RESURVEY AND REPLAT OF THE SUBJECT PROPERTY DESCRIBED AS LOT 13, SAHHALI SOUTH (MAP C-552), TILLAMOOK COUNTY PLAT RECORDS.

THE EXTERIOR BOUNDARY OF THE SUBJECT PROPERTY WAS DETERMINED BY HOLDING FOUND ORIGINAL MONUMENTS FROM SAID PLAT OF SAHHALI SOUTH.

THE PURPOSE OF THIS SURVEY IS TO PARTITION THE SUBJECT PROPERTY INTO TWO PARCELS AND CREATE



LOT 44 HERON LOT 12 (588° 43'44"E)4 (42.26')4 588° 43'44"E 42.26' LOT 43 LOT 42 N79°12'36"E 579° 12'36" W (579° 12'36" W LOT 41 PARCEL 19,340 SQ. FT. LOT INITIAL POINT SAIHIHALI SOUTH PARCEL (MAP C-552) 19,089 5Q. FT. OPEN SPACE

CURVE TABLE					
CURVE	RADIU5	LENGTH	DELTA	CH. BEARING	CH. LENGTH
C1	125.00'	47.12'	21°36'00"	N40°54'18"E	46.85'
(C1)4	125.00	47.12'	21°36'00"	N40°54'18"E	46.85'
C2	125.00'	11.49'	5°16'04"	N27°28'16"E	11.49'
(C2)4	125.00'	11.49'	5°16'04"	N27°28'16"E	11.49'
СЗ	125.00'	67.30'	30°50'57"	N75°50'48"E	66.49'
C4	125.00'	12.80'	05°52'05"	N57°29'17"E	12.80'
C5	125.00'	80.10	36°43'01"	N72°54'46"E	78.74'
(C5)4	125.00'	80.10	36°43'01"	N72°54'46"E	78.74'
C6	100.00'	63.39'	36°19'04"	N70°35'13"W	62.33'
(C6)4	100.00'	63.39'	36°19'04"	570°35'13"E	62.33'
C7	50.00'	169.24	193°55'52"	N00°13'11"E	99.26'
(C7)4	50.00'	169.24'	193°55'52"	N08° 13'11"E	99.26'
CB	125.00'	21.44'	09°49'34"	N43°40'11"E	21.41'
C9	125.00'	6.81'	03°07'20"	N50°08'38"E	6.81'

LOT / LOT LOT LOT DRIVE

> OPEN SPACE

LEGEND

588°44'45"E

N88° 44' 45" W

(NBB°44'45"W

THALASSA

INDICATES SET 5/8" X 40" REBAR WITH PLASTIC CAP STAMPED "HLB OTAK INC".

234.76' 234.76')4

- INDICATES FOUND 5/8" REBAR WITH PLASTIC CAP STAMPED "HLB & ASSOC INC". HELD AS AN ORIGINAL MONUMENT FROM THE PLAT OF SAHHALI SOUTH (MAP C-552), TILLAMOOK COUNTY PLAT RECORDS.
- INDICATES MONUMENT FOUND AS NOTED HEREON, USED FOR CONTROL.
- INDICATES FOUND 5/8" REBAR WITH ALUMINUM CAP STAMPED "OREGON STATE HIGHWAY DIV". HELD FOR POSITION FOR THE RELOCATED OREGON COAST HIGHWAY #101. SEE MAP 8-1525, TILLAMOOK COUNTY SURVEY RECORDS.
- ()1 INDICATES RECORD VALUE FROM MAP C-393, TILLAMOOK COUNTY SURVEY
- ()2 INDICATES RECORD VALUE FROM MAP C-490, TILLAMOOK COUNTY SURVEY
- ()3 INDICATES RECORD VALUE FROM MAP B-574, TILLAMOOK COUNTY SURVEY RECORDS.
- ()4 INDICATES RECORD VALUE FROM THE PLAT OF SAHHALI SOUTH (MAP C-552), TILLAMOOK COUNTY PLAT RECORDS.

NO () INDICATES MEASURED VALUE.

3002W/RANGER

MONUMENT NOTES

- FOUND COUNTY SURVEYOR'S 3" BRASS CAP IN CONCRETE SET IN RED CLAY PIPE, STAMPED "55 11 55 10 13 10 24 19 R5 207 1974", SET AS SECTION CORNER, SEE REWITNESS BIN #941, TILLAMOOK COUNTY SURVEY RECORDS, HELD FOR BASIS OF BEARING.
- FOUND 5/8" IRON ROD, FLUSH TO GROUND, SET AS EAST 1/16 CORNER SECTION 13, SEE MAP B-574, TILLAMOOK COUNTY SURVEY RECORDS, HELD FOR BASIS OF BEARING.

LINE TABLE			
LINE	BEARING	LENGTH	
L1	514°30'25"E	44.52'	
L2	564°27'56"E	8.87'	
L3	527°52'02"W	10.01'	
L4	564°27'56"E	13.12'	
L5	514°30'25"E	45.35'	
L6	527°52'02"W	38.42'	
(L6)4	527°52'02"W	38.42"	
L7	527°52'02"W	19.21'	
LB	527°52'02"W	19.21'	
L9	N17°08'02"W	19.83'	
(L9)4	N17°08'02"W	19.83'	
L10	N52°25'41"W	11.44'	
(L10)4	N52°25'41"W	11.44'	
L11	N52°25'41"W	30.42'	
(L11)4	N52°25'41"W	30.42'	
L12	535°56'49"W	25.01'	
(L12)4	535°56'49"W	25.01'	
L13	N79°12'36"E	51.22'	
(L13)4	N79°12'36"E	51.22'	
L14	N79°12'36"E	51.22'	
(L14)4	N79°12'36"E	51.22'	
L15	588°44'45"E	44.74'	
(L15)4	588°44'45"E	44.74'	
L16	588°44'45"E	44.74'	
(L16)4	588°44'45"E	44.74'	
L17	588°44'45"E	44.74	
(L17)4	588°44'45"E	44.74	
L18	588°44'45"E	44.74	
(L18)4	588°44'45"E	44.74'	
L19	588°44'45"E	44.74'	
(L19)4	588°44'45"E	44.74'	
L20	588°44'45"E	44.74'	
(L20)4	588°44'45"E	44.74'	
L21	588°44'45"E	44.74	
(L21)4	588°44'45"E	44.74	
122	523°50'14"E	50.82	
(L22)4	523°50'14"E	50.82'	
L23	552°25'41"E	73.45'	
(L23)4	552°25'41"E	73.45'	
L24	N35°56'47"E	54.93'	
(L24)4	535°56′47″W	54.93'	
L25	N27°52'02"E	102.87	
(L25)4	N27°52'02"E	102.87	
L26	566°44'02"W	79.68'	
127	N27°52'02"E	39.84'	
128	N66°44'02"E	79.68	

2009-5

(588° 44'45"E)4 (86.57')4

588°44'45"E

CONDITIONS & RESTRICTIONS

SEE INSTRUMENT #2007-001030, TILLAMOOK COUNTY DEED RECORDS FOR DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS, FOR SAHHALI SOUTH.

CONDITIONS AND RESTRICTIONS FROM THE OREGON DEPARTMENT OF FISH AND WILDLIFE STATING: THIS PROPERTY IS IN AN AREA OF KNOWN BIG GAME AND FUR BEARER ANIMAL USE. ANY AND ALL PRESENT AND FUTURE OWNERS OF THIS PROPERTY WAIVE ANY CLAIM THEY MAY HAVE AGAINST THE OREGON DEPARTMENT OF FISH AND WILDLIFE FOR ANY DAMAGE AND/OR INCONVENIENCE CAUSED BY THESE ANIMALS TO SUCH PERSONS OR THEIR REAL PROPERTY, AND/OR PERSONAL PROPERTY.

THIS AGREEMENT CANNOT BE DELETED OR ALTERED WITHOUT PRIOR CONTACT AND AGREEMENT BY THE OREGON DEPARTMENT OF FISH AND WILDLIFE.

> "STRAW" #A2004 5778Y130.DWG DEC. 31, 2008

DETAIL MAP

1" = 50'

REGISTERED HLB PROFESSIONAL LAND SURVEYOR OREGON DALE N. BARRETT RENEWAL DATE: DECEMBER 31, 2009 DATE JOB NO. EQUIPMENT

SHEET 1 OF 2

 SURVEYING
 CIVIL ENGINEERING
 PLANNING
 WATER RIGHTS CLATSOP COUNTY

5DW/WML

. WETLAND CONSULTING 4253-A HWY 101 N. GEARHART, OR 97138 (503) 730-3425 FAX: (503) 738-7455

160 LANEDA AVE MANZANITA, OR 97130 (503) 360-5394 FAX: (503) 360-5047 WWW.HLB-OTAK.COM

PACIFIC COUNTY

1715-B N. PACIFIC AVE. LONG BEACH, WA 98631 (360) 642-4454 FAX: (360) 642-4054

TILLAMOOK COUNTY

DNB

CHECKED

5DW

PARTITION PLAT FOR:

PARTITION PLAT NO.

SAHHALI SOUTH, LLC

LOT 13 SAHHALI SOUTH

NW 1/4, NE 1/4, SEC. 24, T55, R11W, W.M. TILLAMOOK COUNTY, OREGON



BASIS OF BEARING

LOT 45

LOT 44

LOT 43

LOT

OPEN

SPACE

41

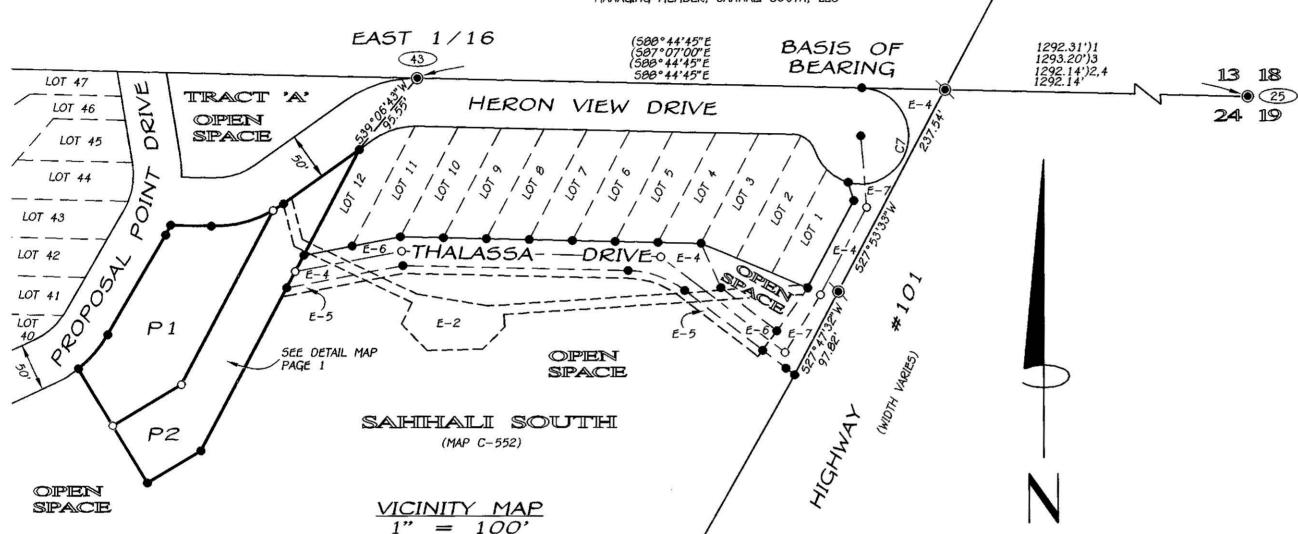
THE LINE BETWEEN THE FOUND MONUMENTS 43 AND 25 AS SHOWN HEREON BEARS SOUTH 80°44'45" EAST, THE RECORD VALUE FROM MAP C-393, TILLAMOOK COUNTY SURVEY RECORDS.

DECLARATION

KNOW ALL PEOPLE BY THESE PRESENTS THAT SAHHALI SOUTH, LLC. A LIMITED LIABILITY COMPANY IS THE OWNER OF THE LAND REPRESENTED ON THE ANNEXED MAP AND MORE PARTICULARLY DESCRIBED IN THE ACCOMPANYING SURVEYOR'S CERTIFICATE AND HAS CAUSED THE SAME TO BE SURVEYED AND PARTITIONED INTO TWO PARCELS AS SHOWN

DECLARANT DOES HEREBY CREATE AND GRANT EASEMENTS E-4, E-5 AND E-11 AS SHOWN HEREON FOR THE BENEFIT OF PARCEL 1 AND PARCEL 2 AS WELL AS E-8, E-9 AND E-10 FOR THE BENEFIT OF PARCEL 2.

VICE PRESIDENT, SYCAN B CORP. MANAGING-MEMBER, SAHHALI SOUTH, LLC



N54°33'15"E 33.40'

THALASSA

~527°52'02"W 1.42'

527°52'02"W

OPEN

SPACE

DRIVE

TRACT 'A'

SPACE

HERON

PARCEL

521°52'12"W 20.00'

PARCEL

2

- N67° 14'54"W

N78°00'18"W 20.95'

N78°00'18"W 13.18'

VIEW

E-8

32°25'24"W

EASEMENT MAP

1" = 50'

EASEMENTS OF RECORD

E-1 - AN 8.0 FOOT WIDE NON-EXCLUSIVE UTILITY EASEMENT FOR POWER, CABLE, TELEPHONE, SEWER, ETC. SEE EASEMENT E-1 ON THE PLAT OF SAHHALI SOUTH (MAP C-552), TILLAMOOK

E-2 - A VARIABLE WIDTH EASEMENT FOR STORM DRAINAGE PIPE AND SETTLING POND FOR THE BENEFIT OF THE SAHHALI SOUTH OWNERS ASSOCIATION. SEE EASEMENT E-5 ON THE PLAT OF 5AHHALI SOUTH (MAP C-552), TILLAMOOK COUNTY PLAT RECORDS.

E-3 - A 15.0 FOOT WIDE EASEMENT FOR WATERLINE FOR THE BENEFIT OF SAHHALI SOUTH OWNERS ASSOCIATION. SEE EASEMENT E-B ON THE PLAT OF SAHHALI SOUTH (MAP C-552), TILLAMOOK COUNTY PLAT RECORDS.

E-6 - A VARIABLE WIDTH EASEMENT FOR INGRESS AND EGRESS FOR THE BENEFIT OF LOT 13. SEE EASEMENT E-4 ON THE PLAT OF SAHHALI SOUTH (MAP C-552). TILLAMOOK COUNTY PLAT RECORDS.

E-7 - A VARIABLE WIDTH NON-EXCLUSIVE ACCESS AND UTILITY EASEMENT FOR UTILITIES (POWER, CABLE, TELEPHONE, SEWER, ETC.) AND EMERGENCY SERVICES. SEE EASEMENT E-3 ON THE PLAT OF 5AHHALI SOUTH (MAP C-552), TILLAMOOK COUNTY PLAT RECORDS.

EASEMENTS CREATED BY THIS PLAT

E-4 - A VARIABLE WIDTH ROADWAY EASEMENT PROVIDED OVER THALASSA DRIVE FOR ACCESS BY RESIDENTS, AND GUESTS OF SAHHALI . SOUTH HOMEOWNERS ASSOCIATION, AND A NON-EXCLUSIVE UTILITY EASEMENT OVER SAID DRIVE FOR SANITARY SEWER, WATER MAINS, UNDERGROUND POWER, TELECOMMUNICATIONS, ETC.

E-5 - A 30.0 FOOT WIDE EASEMENT FOR INGRESS AND EGRESS FOR THE BENEFIT OF PARCEL 1.

E-8 - AN 8.0 FOOT WIDE NON-EXCLUSIVE UTILITY EASEMENT FOR POWER, CABLE, TELEPHONE, SEWER, ETC.

E-9 - AN 8.0 FOOT WIDE NON-EXCLUSIVE UTILITY EASEMENT FOR POWER, CABLE, TELEPHONE,

E-10 - A 10.0 FOOT WIDE NON-EXCLUSIVE UTILITY EASEMENT FOR POWER, CABLE, TELEPHONE, SEWER, ETC.

E-11 - A 20.0 FOOT WIDE NON-EXCLUSIVE UTILITY EASEMENT FOR POWER, CABLE, TELEPHONE,

SURVEYOR'S CERTIFICATE

I, DALE N. BARRETT, CERTIFY THAT: I HAVE CORRECTLY SURVEYED AND MARKED WITH PROPER MONUMENTS THE LAND REPRESENTED ON

THE BOUNDARIES OF WHICH ARE DESCRIBED AS FOLLOWS:

LOT 13, SAHHALI SOUTH (MAP C-552), TILLAMOOK COUNTY PLAT RECORDS.

INITIAL POINT 5/8" REBAR WITH PLASTIC CAP STAMPED "HLB & ASSOC INC" AT THE MOST WESTERLY POINT OF LOT 13.

I FURTHER CERTIFY THAT THIS MAP WAS PREPARED USING HP PRODUCT #51640A INK ON WMF

ACKNOWLEDGMENT

STATE OF CESSON > COUNTY OF LANTE >

THIS INSTRUMENT WAS ACKNOWLEDGED BEFORE ME ON BY TIMOTHY D. HOVET AS VICE PRESIDENT OF SYCAN B CORP. MANAGING MEMBER OF SAHHALI SOUTH, LLC.

NOTARY PUBLIC - OR

COMMISSION NO. 388695

MY COMMISSION EXPIRES 02-01-2009 FEBRUARY 01, 2009

APPROVALS:

APPROVED THIS 9TH DAY OF FEBRUARY , 2008.9

Danny R me nutt TILLAMOOK COUNTY SURVEYOR

TAXES HAVE BEEN PAID IN FULL TO JUNE 30, 2009.

THLAMOOK COUNTY TAX COLLECTOR DATE

CERTIFICATE OF COUNTY CLERK

STATE OF OREGON

> 5.5. COUNTY OF TILLAMOOK

I, HEREBY CERTIFY THAT THIS PARTITION PLAT WAS RECEIVED FOR RECORD ON THE 10 DAY OF February, 2008 AND RECORDED AS PARTITION PLAT NO, 2009-5 IN PLAT CABINET B- 1099-0 TILLAMOOK COUNTY PLAT RECORDS, AS INSTRUMENT NO. 2009 - 000 95.1

Br. Clesa Marshall. Deputy TASSI O'NEIL, COUNTY CLERK

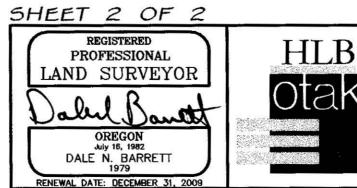
I, TASSI O'NEIL, DO HEREBY CERTIFY THAT I AM THE QUALIFIED CLERK OF TILLAMOOK COUNTY, OREGON AND THAT THIS COPY OF PARTITION PLAT NO. 2009-5 IS THE FULL, COMPLETE AND TRUE COPY OF THE ORIGINAL PLAT OF SAME, AS RECORDED IN PLAT CABINET B- 1099-0 OF PARTITION PLAT RECORDS OF TILLAMOOK COUNTY, OREGON RECORDED February 10, 2009, AS INSTRUMENT NO. 2009 - 600 951

llesa Marshall, TASSI O'NEIL, COUNTY CLERK

I, DALE N. BARRETT, DO HEREBY CERTIFY THAT THIS IS A FULL, COMPLETE AND TRUE COPY OF THE ORIGINAL PLAT AS REFERENCED ABOVE.

led Banet





PARTITION PLAT NO. ________ SURVEYING
 CIVIL ENGINEERING
 PLANNING
 WATER RIGHTS PACIFIC COUNTY 1715-B N. PACIFIC AVE. LONG BEACH, WA 98631 (360) 642-4454 FAX: (360) 642-4054

WETLAND CONSULTING CLATSOP COUNTY 4253-A HWY 101 N. GEARHART, OR 97138 (503) 730-3425 FAX: (503) 730-7455

5DW/WML

TILLAMOOK COUNTY 160 LANEDA AVE MANZANITA, OR 97130 (503) 360-5394 FAX: (503) 360-5847

WWW.HLB-OTAK.COM

PARTITION PLAT FOR:

SAHHALI SOUTH, LLC

LOT 13 SAHHALI SOUTH

NW 1/4, NE 1/4, SEC. 24, T55, R11W, W.M. TILLAMOOK COUNTY, OREGON



"5TRAW" #A2004

5778Y130.DWG DEC. 31, 2008

60778 3002W/RANGER

Expiration Date: 7/31/2025 Permit Number: 102860 File Number: 114460 Page 1 of 11 Pages

WATER POLLUTION CONTROL FACILITIES PERMIT

Department of Environmental Quality
Western Region - Eugene Office
165 East 7th Ave., Suite 100, Eugene, OR 97401
Telephone: (541) 686-7838

Issued pursuant to ORS 468B.050

ISSUED TO:

Sahhali South Homeowners Association 840 Beltline Road Suite 202 Springfield, OR 97477

SYSTEM TYPE AND LOCATION:

On-Site Sewage Treatment and Disposal

Sahhali South 1.5 miles north of Neskowin

Drainfields located at: T: 5S, R: 10W, Sect.: 19B, lots 800 & 801, Lat.: 45.1281,

Long.: -123.9706

SOURCES COVERED BY THIS PERMIT:

Type of Waste
Domestic Sewage

System 001

Method of Treatment/Disposal Re-circulating Fixed Film Media

Filters & Drainfields

RIVER BASIN INFORMATION:

Basin: Northern Oregon Coastal Sub Basin: Wilson/Trask/Nestucca

LLID: 1240637462558

River Mile: 92.9 County: Tillamook

Nearest surface water which would receive waste

if it were to discharge: Pacific Ocean

This permit is issued in response to Application No. 963452 received on 9/12/2011 and is based on the Land Use Compatibility Statement signed on 10/3/2005 by Tillamook County.

David Belyea, Manager

Regional Environmental Solutions

8/10/2015 Date

PERMITTED ACTIVITIES

Until this permit expires or is modified or revoked, the permittee is authorized to construct, install, modify, or operate a wastewater collection, treatment, control and disposal system in conformance with all the requirements, limitations, and conditions set forth in the attached schedules as follows:

	<u>Page</u>
Schedule A - Waste Disposal Limitations	2-3
Schedule B - Minimum Monitoring and Reporting Requirements	4-5
Schedule C - Compliance Conditions and Schedules	
Schedule D - Special Conditions	6-7
Schedule E - Not Applicable	
Schedule F - General Conditions	8-11

Discharge of untreated or partially treated sewage or septic tank effluent directly or indirectly onto the ground surface or into surface waters constitutes a public health hazard and is prohibited. This permit does not relieve the permittee from responsibility for compliance with any other applicable federal, state, or local law, rule or standard.

File Number: 114460 Page 2 of 11 Pages

SCHEDULE A

Waste Disposal Limitations

- 1. The permittee is authorized to operate and maintain a domestic sewage treatment and disposal facility consisting of Re-circulating Fixed Film Media Filter units with final disposal to soil absorption drainfields.
 - a) The average daily flow to the drainfield should be approximately fifty percent (50%) of the maximum daily or peak flow to the treatment system. The maximum peak daily flow must not exceed the following unless otherwise approved by the Department:

System	Maximum Daily Flow	
001	17,400 gpd	

b) The **influent** to the treatment unit must not exceed the following maximum concentrations:

Parameter	Limitation
BOD5	400 mg/l
Greases and Oil	30 mg/l
TSS	150 mg/l
TKN	150 mg/l

c) The **effluent** from the treatment unit to the drainfields must not exceed the following maximum concentrations:

Parameter	Limitation
BOD5	30 mg/l
TSS	30 mg/l
TN	30 mg/l

- d) No discharge to surface waters is permitted. All wastewater must be distributed into a soil absorption facility so as to prevent:
 - 1) Surfacing of wastewater on the ground surface, surface runoff or subsurface drainage through drainage tile.
 - 2) The creation of odors, fly and mosquito breeding and other nuisance conditions.
 - 3) The overloading of land with nutrients or organics.
 - 4) Impairment of existing or potential beneficial uses of groundwater.
- 2. No cooling water, air conditioner water, water softener brine, groundwater, oil, hazardous materials, roof drainage, storm water runoff, or other aqueous or non-aqueous substances which are, in the judgment of the Department, detrimental to the performance of the system or to groundwater, shall be discharged into the sewage treatment system, unless specifically approved in writing by the Department.
- 3. No activities shall be conducted that could cause an adverse impact on existing or potential beneficial uses of groundwater.

File Number: 114460 Page 3 of 11 Pages

Groundwater Concentration Limit Variance (CLV) for Nitrate-Nitrogen (NO₃-N):

4. A CLV of 5.5 mg/L **NO₃-N** is established at the groundwater compliance point identified in the Department approved Ground Water Monitoring Plan.

File Number: 114460 Page 4 of 11 Pages

SCHEDULE B

Minimum Monitoring and Reporting Requirements

1. System Monitoring Requirements

The permittee must monitor the operation and efficiency of all treatment and disposal facilities. Sampling and measurements taken as required herein must be representative of the nature of the wastewater, and must be taken at peak usage during operation of the system. Unless otherwise agreed to in writing by the Department of Environmental Quality, data collected, and submitted must include but not necessarily be limited to the following parameters and minimum frequencies:

a. Influent to Treatment Unit

Item or Parameter	Minimum Frequency	Type of Sample
Sewage Flow, GPD	Monthly Average	Measurement or calculation
		based on meter readings
Flow Meter Calibration	Annually	Verification
$\overline{\mathrm{BOD}}_5$	Annually*	Grab
TSS	Annually*	Grab
Grease and oils	Annually*	Grab
NH ₃ -N	Annually*	Grab
TKN	Annually*	Grab

^{*}Influent sampling is to begin when average daily flows reach 5,000 gpd.

b. Effluent from the Treatment Unit to the Soil Absorption Facility

Item or Parameter	Minimum Frequency	Type of Sample
$\overline{\mathrm{BOD}_5}$	Semi-annually	Grab
TSS	Semi-annually	Grab
TKN	Semi-annually	Grab
NH ₃ -N	Semi-annually	Grab
NO ₃ -N	Semi-annually	Grab

d. Operations and Maintenance Activities

The permittee must record in writing all observations of operation and maintenance activities as required in the Department approved Operation and Maintenance Plan on a monthly basis.

e. Solids Management

The permittee must maintain a record of the pumping dates and quantity in gallons, of solids/wastewater pumped, and what licensed sewage disposal service company pumped the solids/wastewater, as well as the final disposal location and transfer local (if applicable).

2. Reporting Procedures

Monitoring, maintenance practices, solids handling, and results must be reported on Department approved forms. The reporting period is the calendar year. Reports must be submitted to the DEQ office listed on the face page of this permit by **January 15 following the reporting period.**

File Number: 114460 Page 5 of 11 Pages

3. Groundwater and Surface Water Minimum Monitoring and Reporting Requirements

a. With the addition of Total Kjeldahl Nitrogen (TKN) to the list of analytes to monitor at sampling locations S-1 and SW-2, groundwater and surface water monitoring and reporting must be conducted in accordance with the Department approved Groundwater Monitoring Plan.

File Number: 114460 Page 6 of 11 Pages

SCHEDULE D

Special Conditions

- 1. The permittee must maintain on file a complete Operation and Maintenance (O&M) Plan approved by the Department. The permittee must operate, manage and implement preventative maintenance practices or corrections at the frequencies required in the Department approved O&M Plan. Any changes to the plan must be approved by the Department.
- 2. In the event that the a concentration limit, as specified in Schedule A, to the sand filter is exceeded, the permittee must within fourteen (14) working days of receipt of the analytical results:
 - a) Report the results to the Department;
 - b) Resample to verify the results; and
 - c) In the event that resampling the influent to the sand filter confirms a concentration limit violation, within thirty (30) days of confirmation, the permittee must submit to the Department a corrective action plan to reduce the waste strength so that the concentration limits are not violated. Upon Department approval, the plan must be implemented by the permittee.
- 3. Groundwater Monitoring Resampling Requirements:
 - a) If monitoring indicates a significant increase in the value of a parameter monitored, or if a concentration limit is exceeded at a compliance point, the permittee must immediately resample.
 - b) If the resampling confirms a change in water quality or an exceedance of a concentration limit at a compliance point, the permittee must:
 - 1) Report the results to the Department within 10 days of receipt of the laboratory data;
 - 2) Prepare and submit to the Department within 30 days a plan for developing a preliminary assessment unless another time schedule is approved by the Department.
- 4. The operation and maintenance of this community sewage treatment and disposal system must continue to be vested in a municipality, a Homeowners Association or an Association of Unit Owners as defined by Oregon Revised Statutes.
- 5. The wastewater treatment and dispersal systems must be supervised by an operator at the proper classification and grade in accordance with Oregon Administrative Rules (OAR), Chapter 340, Division 049 or by a maintenance provider certified in accordance with OAR 340-071-0100 (95)
- 6. If monitoring data indicate that the permittee's discharge poses a significant threat to groundwater quality, the Department may reopen this permit, if necessary, to include corrective action and/or additional monitoring requirements. Based on monitoring data or other system operational factors, the Department may also reopen this permit, if necessary, to reduce monitoring requirements.
- 7. All septage/sludge must be managed by a licensed sewage disposal service as defined in Oregon Administrative Rule 340-71-100.

File Number: 114460 Page 7 of 11 Pages

8. A deep-rooted, permanent grass cover must be maintained on the drainfield areas at all times and periodically cut to ensure maximum infiltration and evapotranspiration rate.

- 9. The drainfield areas including replacement areas must not be subject to activities that would, in the opinion of the Department, adversely affect the soil or the functioning of the system. This includes, but is not limited to, vehicular or animal traffic, filling or cutting, covering the area with asphalt or concrete, or subjecting the area to excessive saturation.
- 7. Management and Maintenance of Groundwater Monitoring Wells:
 - a. The permittee must protect and maintain each groundwater monitoring well so that samples collected are representative of actual conditions.
 - b. All monitoring well abandonments, replacements, repairs, and installations must be conducted in accordance with the Water Resources Department Oregon Administrative Rules, Chapter 690, Division 240. All monitoring well abandonments, replacements, repairs, and installations must be documented in a report prepared by an Oregon registered geologist.
 - c. If a monitoring well becomes damaged or inoperable, the permittee shall notify the Department in writing within 14 days of when the permittee becomes aware of the circumstances. The written report shall describe: what problem has occurred, the remedial measures that have been or will be taken to correct the problem, and the measures taken to prevent the recurrence of damage or inoperation. The Department may require the replacement of inoperable monitoring wells.
 - d. Prior to installation of new or replacement monitoring wells, the placement or design must be approved in writing by the Department. Well logs and a well completion report shall be submitted to the Department within 30 days of installation of the well. The report shall include a survey drawing showing the location of all monitoring wells, disposal sites, and water bodies.
 - e. Prior to abandonment of existing wells deemed unsuitable for groundwater monitoring, an abandonment plan must be submitted to the Department for review and approval.
- 8. An adequate contingency plan for prevention and handling of spills and unplanned discharges must be in force at all times. The permittee must immediately notify the DEQ office listed on the face page of this permit and the local County Health Department of any occurrence of surfacing sewage. If a spill does occur that reaches or threatens to reach public waters, the permittee must immediately notify Oregon Emergency Response (OER) at 1-800-452-0311.

File Number: 114460 Page 8 of 11 Pages

SCHEDULE F

WPCF GENERAL CONDITIONS

SECTION A. STANDARD CONDITIONS

1. Duty to Comply with Permit

The permittee must comply with all conditions of this permit. Failure to comply with any permit condition is a violation of Oregon Revised Statutes (ORS) 468B.025 and grounds for an enforcement action. Failure to comply is also grounds for the Department to modify, revoke, or deny renewal of a permit.

2. Property Rights and Other Legal Requirements

Issuance of this permit does not convey any property rights of any sort, or any exclusive privilege, or authorize any injury to persons or property or invasion of any other rights, or any infringement of federal, tribal, state, or local laws or regulations.

3. Liability

The Department of Environmental Quality or its officers, agents, or employees may not sustain any liability on account of the issuance of this permit or on account of the construction or maintenance of facilities or systems because of this permit.

4. Permit Actions

After notice by the Department, this permit may be modified, suspended, or revoked in whole or in part during its term for cause including but not limited to the following:

- a. Violation of any term or condition of this permit, any applicable rule or statute, or any order of the Commission;
- b. Obtaining this permit by misrepresentation or failure to disclose fully all relevant facts.

5. Transfer of Permit

This permit may not be transferred to a third party without prior written approval from the Department. The Department may approve transfers where the transferee acquires a property interest in the permitted activity and agrees in writing to fully comply with all the terms and conditions of this permit and the rules of the Commission. A transfer application and filing fee must be submitted to the Department.

6. Permit Fees

The permittee must pay the fees required by Oregon Administrative Rules.

File Number: 114460 Page 9 of 11 Pages

SECTION B. OPERATION AND MAINTENANCE OF POLLUTION CONTROLS

1. <u>Proper Operation and Maintenance</u>

At all times the permittee must maintain in good working order and properly operate as efficiently as possible all treatment or control facilities or systems installed or used by the permittee to comply with the terms and conditions of this permit.

2. Standard Operation and Maintenance

All waste collection, control, treatment, and disposal facilities or systems must be operated in a manner consistent with the following:

- a. At all times, all facilities or systems must be operated as efficiently as possible in a manner that will prevent discharges, health hazards, and nuisance conditions.
- b. All screenings, grit, and sludge must be disposed of in a manner approved by the Department to prevent any pollutant from the materials from reaching waters of the state, creating a public health hazard, or causing a nuisance condition.
- c. Bypassing untreated waste is generally prohibited. Bypassing may not occur without prior written permission from the Department except where unavoidable to prevent loss of life, personal injury, or severe property damage.

3. <u>Noncompliance and Notification Procedures</u>

If the permittee is unable to comply with conditions of this permit because of surfacing sewage; a breakdown of equipment, facilities or systems; an accident caused by human error or negligence; or any other cause such as an act of nature, the permittee must:

- a. Immediately take action to stop, contain, and clean up the unauthorized discharges and correct the problem.
- b. Immediately notify the Department's Regional office so that an investigation can be made to evaluate the impact and the corrective actions taken, and to determine any additional action that must be taken.
- c. Within 5 days of the time the permittee becomes aware of the circumstances, the permittee must submit to the Department a detailed written report describing the breakdown, the actual quantity and quality of waste discharged, corrective action taken, steps taken to prevent a recurrence, and any other pertinent information.

Compliance with these requirements does not relieve the permittee from responsibility to maintain continuous compliance with the conditions of this permit or liability for failure to comply.

File Number: 114460 Page 10 of 11 Pages

4. Wastewater System Personnel

The permittee must provide an adequate operating staff that is duly qualified to carry out the operation, maintenance, and monitoring requirements to assure continuous compliance with the conditions of this permit.

SECTION C. MONITORING AND RECORDS

1. Inspection and Entry

The permittee must at all reasonable times allow authorized representatives of the Department to:

- a. Enter upon the permittee's premises where a waste source or disposal system is located or where any records are required to be kept under the terms and conditions of this permit;
- b. Have access to and copy any records required by this permit;
- c. Inspect any treatment or disposal system, practices, operations, monitoring equipment, or monitoring method regulated or required by this permit; or
- d. Sample or monitor any substances or permit parameters at any location at reasonable times for the purpose of assuring permit compliance or as otherwise authorized by state law...

2. Averaging of Measurements

Calculations of averages of measurements required for all parameters except bacteria must use an arithmetic mean; bacteria must be averaged as specified in the permit.

3. Monitoring Procedures

Monitoring must be conducted according to test procedures specified in the most recent edition of **Standard Methods for the Examination of Water and Wastewater**, unless other test procedures have been approved in writing by the Department and specified in this permit.

4. Retention of Records

The permittee must retain records of all monitoring and maintenance information, including all calibrations, copies of all reports required by this permit, and records of all data used to complete the application for this permit, for a period of at least 3 years from the date of the sample, measurement, report or application. The Department may extend this period at any time.

SECTION D. REPORTING REQUIREMENTS

1. Plan Submittal

Pursuant to Oregon Revised Statute 468B.055, unless specifically exempted by rule, construction, installation, or modification of disposal systems, treatment works, or sewerage systems may not

File Number: 114460 Page 11 of 11 Pages

commence until plans and specifications are submitted to and approved in writing by the Department. All construction, installation, or modification shall be in strict conformance with the Department's written approval of the plans.

2. <u>Change in Discharge</u>

Whenever a facility expansion, production increase, or process modification is expected to result in a change in the character of pollutants to be discharged or in a new or increased discharge that will exceed the conditions of this permit, a new application must be submitted together with the necessary reports, plans, and specifications for the proposed changes. A change may not be made until plans have been approved and a new permit or permit modification has been issued.

3. Signatory Requirements

All applications, reports, or information submitted to the Department must be signed and certified by the official applicant of record (owner) or authorized designee.

SECTION E. DEFINITIONS

- 1. BOD_5 means five-day biochemical oxygen demand.
- 2. TSS means total suspended solids.
- 3. FC means fecal coliform bacteria.
- 4. NH_3 -N means Ammonia Nitrogen.
- 5. NO_3 -N means Nitrate Nitrogen.
- 6. *NO*₂-*N* means Nitrite Nitrogen.
- 7. TKN means Total Kjeldahl Nitrogen.
- 8. *Cl* means Chloride.
- 9. TN means Total Nitrogen.
- 10. "*Bacteria*" includes but is not limited to fecal coliform bacteria, total coliform bacteria, and E. coli bacteria.
- 11. Total residual chlorine means combined chlorine forms plus free residual chlorine.
- 12. mg/l means milligrams per liter.
- 13. *ug/l* means micrograms per liter.
- 14. kg means kilograms.
- 15. *GPD* means gallons per day.
- 16. *MGD* means million gallons per day.
- 17. *Grab sample* means an individual discrete sample collected over a period of time not to exceed 15 minutes.
- 18. *Composite sample* means a combination of samples collected, generally at equal intervals over a 24-hour period, and based on either time or flow.
- 19. Week means a calendar week of Sunday through Saturday.
- 20. *Month* means a calendar month.
- 21. *Quarter* means January through March, April through June, July through September, or October through December.

Tillamook County, Oregon 02/15/2007 03:46:14 PM DEED-CCR

2007-001308

\$285.00 \$11.00 \$10.00 - Total = \$306.00



I hereby certify that the within Instrument was received for record and recorded in the County of Tillamook, State of Oregon.

Tassi O'Neil, Tillamook County Clerk

AFTER RECORDING, RETURN TO:

Sahhali South, Homeowner's Association. 840 BELTLINE ROAD, SUITE 202 SPRINGFIELD, OR 97477

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS OF SAHHALI SOUTH

THIS DECLARATION is made on) (C. 2006, by Sahhali South, LLC, (Declarant).

RECITALS

- Declarant is the owner of all the real property described in Exhibit "A" attached, including Lots 1 through 56 depicted in the plat of Sahhali South filed concurrently with this Declaration in the Plat Records of Tillamook County, Oregon, and desires to create thereon a Class I Planned Community to be known as Sahhali South, with permanent roadways, utility installations and open spaces for the benefit of the Planned Community.
- B. Declarant is reserving the right, but not undertaking the obligation, to annex additional property to the Planned Community and subject it to the terms and provisions of this Declaration, the Articles and the Bylaws, as the same may be amended or supplemented. This right shall extend to any other property selected by Declarant, there being no limitation on the number of lots or units or Common Property which Declarant may create or annex to the Planned Community. Declarant may annex additional property to the Planned Community in one or more Supplemental Declarations.
- C. Declarant desires to provide for the preservation and enhancement of the property values, amenities and opportunities in Sahhali South and for the maintenance of the Property and improvements thereon, and to this end desires to subject the Property to the covenants, restrictions, easements, charges and liens hereinafter set forth, each and all of which is and are for the benefit of the Property and each owner of any Lot.
- D. Declarant has deemed it desirable for the efficient preservation of the values and amenities in the Planned Community to create a nonprofit corporation, to which will be delegated and assigned the powers of owning, maintaining and administering the Common

Property and facilities and administering and enforcing the covenants and restrictions and collecting and disbursing the assessments and charges hereinafter created, and promoting the recreation, health, safety and welfare of the residents.

- E. This Declaration shall be effective immediately upon its recordation.
- F. Declarant recognizes that the lots in the Planned Community will share to varying degrees for their common benefit the common use of streets, paths, sewerage, and a water system. Declarant is recording this Declaration to subject to this Declaration all of the property described in Exhibit "A" together with such additional property as may hereafter be added to the Planned Community by Declarant.
- G. Declarant intends that the Association shall be the entity that, in conformity with this Declaration, shall control and be responsible for performing and exercising the obligations and powers set forth in Recital D for the entire Planned Community.

NOW, THEREFORE, the Declarant declares that the Property shall be held, transferred, sold, conveyed and occupied subject to the provisions of the Oregon Planned Community Act, ORS 94.550 to 94.783, and to the covenants, restrictions, easements, charges and liens hereinafter set forth in this Declaration.

SECTION 1 DEFINITIONS

- 1.1 "Articles" means the Articles of Incorporation for the nonprofit mutual benefit corporation, Sahhali South Homeowners Association, as filed with the Oregon Corporation Commissioner.
- **1.2** "Association" means Sahhali South Homeowners Association, its successors and assigns.
 - 1.3 "Board of Directors" means the Board of Directors of the Association.
 - 1.4 "Bylaws" means the Bylaws of the Association.
- 1.5 "Common Property" means that area of land shown on the recorded plat or plats of the Property, including any improvements thereon, which are intended to be devoted to the common use and enjoyment of the Owners and which land has been conveyed to the Association.
- 1.6 "Declaration" means the covenants, restrictions, and all other provisions set forth in this Declaration of Covenants, Conditions and Restrictions of Sahhali South.
- 1.7 "Declarant" means Sahhali South, LLC and its successors and assigns as to any interest in the development of the Property.

- **1.8** "Living Unit" or "Unit" means any portion of a structure situated upon the Property designed and intended for use and occupancy as a residence by a single family.
- 1.9 "Lot" means Lots 1 through 56 of Sahhali South as shown on the plat recorded on _____, 200_, Book ____, Page ____, Records of Tillamook County, Oregon and any of the lots which may be subsequently annexed to the Planned Community on any supplemental declaration and plat submitting additional property to the terms of this Declaration. "Lot," however, shall not include any lot depicted on any plat of the Property that is designated for use as Common Property on such plat or declaration of Sahhali South.
 - 1.10 "Member" means Owner and each Owner shall be a Member of the Association.
- 1.11 "Occupant" means the occupant of a Living Unit who shall be either the owner, lessee or any other person authorized by the Owner to occupy the Living Unit.
- 1.12 "Owner" means the record owner, whether one or more persons or entities, of the fee simple title to any Lot or a purchaser in possession under a land sale contract. The foregoing does not include persons or entities that hold an interest in any Lot merely as security for the performance of an obligation.
- 1.13 "Planned Community" means the Lots together with the Common Property for which the Association has the obligations set forth in Recital D and elsewhere in this Declaration. The Planned Community is also referred to herein as Sahhali South.
- 1.14 "Property" means the real property consisting of Lots 1 through 56 of Sahhali South, the Common Property and all improvements located on said real property subject to this Declaration together with such additional Lots and Common Property as may, from time to time, be annexed to the Planned Community.
- 1.15 "Rules and Regulations" means the documents containing rules and regulations and policies adopted by the Board of Directors or the Architectural Review Board as may be from time to time amended.
- 1.16 STEP Effluent Disposal System (STEP System) means the dosing tanks, dosing tank effluent pump, pressure effluent lines, holding tanks, AdvanTex Textile filter units, splitter valves and the common absorption facilities, together with all other facilities necessary to establish and operate the STEP System. The STEP System shall be part of the Common Property and shall be operated by the Association under the terms of an easement until such time as all Lots served by the STEP System are served by another sewerage system owned either publicly or by the Association. At such time, the easement for the STEP System shall at Declarant's option, revert to Declarant, or if Declarant is no longer in existence, to the members of Declarant. Reversion shall be effective upon satisfaction of the foregoing condition and the recording by Declarant of a "Notice of Reversion."

SECTION 2 PROPERTY SUBJECT TO THIS DECLARATION

2.1 Property Included. The real property which is and shall be held, transferred, sold, conveyed and occupied subject to this Declaration is located in Tillamook County, Oregon and consists of Lots 1 through 56 and the adjoining Common Property of Sahhali South which are included within the description in Exhibit "A" and any additional property which may be subsequently annexed to the Association, including, but not limited to, the real property described on Exhibit "B" attached hereto, and incorporated herein by this reference.

2.2 Property Excluded

- 2.2.1 Tax Lot 202, more particularly described on Exhibit "C", is not and will not at any point in time in the future, be forced to be a member of the Sahhali South Homeowners' Association, which is subject to the provisions of this Declaration.
- 2.2.2 Tax Lot 202 is not contributing to the cost of maintenance of any of the common areas, roads or other amenities on site, and therefore, is not entitled to any of the rights of the Homeowners Association's Members contained in this Declaration, beyond the right to use the common areas, in compliance with the Rules and Regulations of the Association.
- 2.2.3 Tax Lot 202, may join the Homeowners Association at any time. If the owners of Tax Lot 202 chose to become members of the Association at any time in the future, time, they will be responsible for all assessments, from the date of joining forward, and shall have all of the same rights, responsibilities and restrictions, as any other Member of the Association.

SECTION 3 HOMEOWNERS ASSOCIATION .MEMBERSHIP AND VOTING RIGHTS

- 3.1 Organization. Declarant organized a nonprofit mutual benefit corporation under the name Sahhali South Homeowners Association, and which is referred to herein as the Association. The Association bylaws shall be recorded in the office of the Recording Officer of Tillamook County. The Association shall have the powers set forth in Recital D, ORS 94.630 and elsewhere in this Declaration.
- 3.2 Members. Each Owner shall be a mandatory member of the Association. Membership in the Association shall be appurtenant to, and may not be separated from, ownership of any Lot. Transfer of ownership of a Lot automatically transfers membership in the Association. Occupants and Owners shall be governed and controlled by this Declaration, the Articles, Bylaws, and rules and regulations of the Association and any amendments thereof.
- **3.3 Proxy.** Each Owner may cast his or her vote by absentee ballot or pursuant to a proxy executed by the Owner. An Owner may not revoke a proxy given pursuant to this Section except by actual notice of revocation to the person presiding over a meeting of the Association. A proxy shall not be valid if it is undated or purports to be revocable without notice. A proxy shall terminate one (1) year after its date, unless the proxy specifies a shorter term.

- **3.4 Voting Rights.** The Association shall have two (2) classes of voting members:
- **3.4.1** Class A. Class A members shall be all Owners of Lots other than the Declarant and each Class A member shall be entitled to one (1) vote for each Lot owned with respect to all matters upon which Owners are entitled to vote. If a Lot is owned by multiple Owners, the Owners of the Lot shall designate by proxy one Owner who shall be entitled to vote. In no event will fractional voting be allowed.
- 3.4.2 Class B. The Class B member shall be the Declarant, its successors and assigns. The Class B member shall have four (4) votes for each Lot owned. Provided, however, that all Class B memberships shall cease upon the conveyance by the Declarant of Lots, representing seventy-five percent (75%) of the total number of votes (termination date). Thereafter, each Owner, including the Declarant, shall be entitled to one (1) vote for each Lot owned with respect to all matters upon which Owners are entitled to vote, and the total number of votes shall be equal to the total number of Lots annexed to the Property and subjected to this Declaration as of such termination date.
- **3.5 Procedure.** All meetings of the Association, the Board of Directors, the Architectural Review Board, and Association committees shall be conducted in accordance with such rules of order as may from time to time be adopted by the Board of Directors. A tie vote does not constitute a majority or approval of any motion or resolution.

SECTION 4 DECLARANT CONTROL

- 4.1 Interim Board and Officers. The Declarant hereby reserves administrative control of the Association. The Declarant, in its sole discretion, shall have the right to appoint and remove members of a three-member Interim Board of Directors, which shall manage the affairs of the Association, and which shall be invested with all powers and rights of the Board of Directors. Notwithstanding the provisions of this Section, at the Turnover Meeting at least one (1) Director shall be elected by Owners other than the Declarant, even if the Declarant otherwise has voting power to elect the Directors.
- 4.2 Transitional Advisory Committee. The Declarant shall form a Transitional Advisory Committee to provide for the transition of administrative control of the Association from the Declarant to the Class A members. Not later than the sixtieth (60th) day after the Declarant has conveyed Lots representing fifty percent (50%) of all votes in Sahhali Shores, the Declarant shall call conduct an election for the purpose of selecting a Transitional Advisory Committee. Declarant may nominate or place on a ballot the names of Class A Owners. The election and balloting process shall permit write in candidates. The committee shall consist of three (3) members. The Class A members shall, by a majority vote, elect two (2) members, and the Declarant shall elect one (1) member. The committee shall have reasonable access to such information and documents as the Declarant is required by law to make available. If the Declarant fails to call the meeting required under this Section, any Owner may do so.

4.3 Turnover Meeting. The Declarant shall call a meeting for the purpose of turning over administrative control of the Association from the Declarant to the Class A members within ninety (90) days of the earlier of the date that Lots representing seventy-five percent (75%) of the total number of votes have been conveyed to persons other than the Declarant or an earlier date selected by Declarant. The Declarant shall give notice of the meeting to each Owner as provided in the Bylaws. If the Declarant does not call the meeting required under this Section, any Owner may do so.

SECTION 5 COVENANTS FOR MAINTENANCE ASSESSMENTS/SPECIAL ASSESSMENTS AND COMMON PROFITS

5.1 Creation of the Lien and Personal Obligation of Assessments. Except as otherwise provided herein, the Declarant hereby covenants and each Owner covenants and agrees to pay the Association (1) regular assessments or charges for common expenses, and (2) special assessments as provided in this Section. All such assessments, together with interest thereon at the rate established from time to time by resolution of the Board of Directors and together with all other costs, fees, charges and fines allowed by law, shall be a lien and charge on the land and shall be a continuing lien upon the Lot against which each such assessment is made. Such lien shall exist and be executed, recorded and foreclosed in the manner provided by law. If the Board of Directors has not established another rate, the interest rate on assessments shall be 12% per year. The assessments shall accrue from the date of sale of each Lot. Notwithstanding any other provision in this Declaration, Declarant may defer payment of accrued assessments assessed for the Capital Replacement Reserve Account for any Lot until the earlier of the sale of the Lot, the date of the Turnover meeting, or the date the Owners assume administrative control of the Association.

5.2 Regular Assessments.

- **5.2.1 Purpose of Assessments.** The assessments levied under this Section shall be used exclusively for the purpose of promoting the recreation, health, safety and welfare of the residents of the Planned Community, and for the improvement and maintenance of the Common Property, including payment of premiums for insurance required under this Declaration and to fund a replacement reserve for Association owned improvements, and for payment of any common operating expenses such as landscaping, maintenance, water, sewer and garbage collection, management services, legal and accounting services and the like. Neither the Association, nor any assessments of the Owners shall be used to engage in lobbying or to exert political influence.
- **5.2.2** Basis for Assessment. Assessment shall be made for the operating needs and the capital replacement needs of the Planned Community. Funds collected for the assessments may be mingled in one account but shall be separately accounted for.
- (a) Operating Costs. Except as provided in 5.2.2(d), all lots subject to assessments shall be assessed equally for operating costs including the following items:

- (2) Expenses of operation, maintenance, repair and replacement of all improvements on the Common Property.
- (3) Expenses directly related to the STEP System, including the installation, operation, maintenance, repair, replacement and operation thereof. The permit for installation of the system and the requirements of monitoring and reporting for the STEP System are more fully described on Exhibit "F" attached hereto, and incorporated herein by this reference.
- (4) Any deficit in common expenses for any prior period.
- (5) Utilities for and property taxes attributable to the Common Property.
- (6) The cost of any professional management desired by the Board of Directors.
- (7) Any other items properly chargeable as an expense of the Association.
- equally for capital replacement reserves as follows: The regular assessment against each Lot shall include an amount allocated to a reserve account established in the name of the Association for the purpose of funding replacements of those elements of the Common Property that will normally require replacement, in whole or in part, in more than three (3) and less than thirty (30) years. The capital replacement reserve portion of the assessments shall initially be determined by the Declarant based on a reserve study or other sources of reliable information. The Board of Directors shall thereafter annually conduct a reserve study or review and update an existing reserve study to determine the capital replacement reserve account requirements. A reserve study shall include (1) identification of all items for which reserves are required to be established, (2) the estimated remaining useful life of each item as of the date of the reserve study, the estimated cost or maintenance, repair or replacement of each item at the end of its useful life, and (4) a 30-year plan with regular and adequate contributions adjusted by estimated inflation and interest earned on reserves, to meet the maintenance, repair and replacement schedule.
- (c) Limited Benefit. Any common expense or part thereof benefiting fewer than all the Lots may be assessed exclusively and equally against all of the Lots benefited, except that the water system, all streets, footpaths, footbridges, common utilities and Common Areas are deemed to benefit all the Lots equally. All regular and special assessments shall be equally allocated among the Lots, except to the extent that Lots may be assessed in different manners as described above.
- (d) Lots Not Served By STEP System. In the event Declarant annexes lots into the Association and said lots are served or approved for service by a sanitary sewer disposal system other than the STEP system, then such lots shall be exempt from assessment for costs under Section 5.2.2 (a)(3) and the portion of assessment attributed to the STEP system under section (b) herein, provided that should an exempt lot be connected to the STEP system the exception shall cease as of the date of connection to the STEP system.

5.2.3 Method of Assessment. The Board of Directors shall determine the annual assessment in accordance with the provisions hereof. However, the annual assessment shall be sufficient to meet the obligations imposed by the Declaration. A budget shall be presented to Association and may be amended by the Class B Member or a majority of the votes of the entire membership if there is no Class B Member. The Board shall set the date(s) such assessments shall become due. The Board may provide for collection of assessments annually or in monthly, quarterly or semi-annual installments. However, upon the default in the payment of any one or more installments, the entire balance of such assessment may be accelerated at the option of the Board and be declared due and payable in full, together with interest and attorneys fees and costs as hereinafter provided.

Notwithstanding any other provisions of this Section, the regular assessments of the Association may not be increased by more than twenty percent (20%) in any one year without approval of a majority of the Owners at a meeting at which a quorum exists, or a majority of the votes of all Owners, if the vote is taken by written ballot.

- **5.3 Special Assessments.** The Board of Directors shall have the power to levy special assessments against an Owner or all Owners in the following manner for the following purposes:
 - (a) To correct a deficit in the operating budget by vote of a majority of the Board;
- (b) To collect amounts due to the Association from an Owner regardless of whether it is for breach of the Owner's obligations under the Declaration, these Bylaws, or the Association's rules and regulations, by vote of a majority of the Board;
- (c) Upon vote of a majority of the Board of Directors, to make repairs or renovations to the Common Property if sufficient funds are not available from the Common Property Operating Account or the Capital Replacement Reserve Account; or
- (d) To make capital acquisitions, additions or improvements, by vote of at least seventy-five percent (75%) of all valid votes cast at a duly called meeting of the Owners or election held by mail-in ballot.
- 5.4 Effect of Nonpayment of Assessments: Remedies of the Association. In addition to any other remedies provided by law, the Association may lien Lots, bring an action at law against the Owner personally obligated to pay the same or foreclose a lien upon the Owner's Lot. No such action or a judgment entered therein shall be a waiver of the lien of the Association. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Property or abandonment of the Owner's Lot.
- 5.5 Subordination of the Lien to Mortgages. The lien with respect to any assessment provided for herein shall be prior to any homestead exemption and all other liens and encumbrances on a Lot, except:

- (a) A first mortgage of record; and
- (b) A lien for real estate taxes and other governmental assessments or charges; and
- (c) Liens and encumbrances recorded before the recordation of this Declaration. Sale or transfer of any Lot shall not affect the assessment lien. However, the sale or transfer of any Lot pursuant to mortgage foreclosure or any proceeding in lieu thereof shall extinguish the lien of such assessments that became due prior to such sale or transfer.
- **5.6 Assessment Payments Belong to Association.** Assessments paid are the property of the Association and are not refundable to Owners of Lots. The Owners of Lots may treat their outstanding share of the unexpended assessments as a separate item in any sale agreement for such Lot.
- **5.7 Common Profits.** Profits arising from any operation or from the sale of any Association asset shall be shared among the Owners in proportion to their liability for payment of assessments.

SECTION 6 EASEMENTS AND COMMON PROPERTY

- 6.1 Obligations of the Association. Subject to the rights of Owners set forth in this Declaration, the Association shall be responsible for the exclusive management and control of the Common Property and any improvements thereon, and shall keep the same in good, clean, attractive and sanitary condition, order and repair, including, but not limited to, the removal of snow, trash and debris, the maintenance, cleaning, repair and replacement of the streets, parking areas, landscaped and unlandscaped land located on the Common Property. This obligation shall include the obligation for the operation, maintenance, repair and replacement of the STEP System. The Association's obligation shall not include any required "On-Lot" equipment, which is the sole responsibility of each lot owner as specified in Section 10.4.2 of this declaration.
- 6.2 **Association's Easements.** The Declarant and the Owner hereby grant to the Association an easement with respect to all Lots for the purpose of installing, operating, maintaining, repairing and replacing facilities related to the STEP System to be located on the Lots. It shall be the obligation of the Association, subject to the provisions of Section 9.3 and 10.4.2 hereof, to install, operate, maintain, repair and replace the STEP System located on Common Property. The Association's easements for installation, operation, maintenance, repair and replacement of the STEP System include the dosing tanks, effluent pumps and pressure effluent lines on each Lot; said easements to be five (5) feet on each side of the dosing tanks located on each Lot and five (5) feet on each side of the center line of said pressure effluent lines. Within these easements, no structure, planting or materials shall be placed or permitted to remain which may materially damage or interfere with the installation, inspection, operation, maintenance, repair and replacement of the STEP System, dosing tanks and pressure effluent lines. The Association shall at all times have access to the easement area and such additional space on the affected Lot as may be reasonably necessary to fulfill its obligations regarding the STEP System. Upon completing its work, the Association shall restore the Lot as near as is

commercially reasonable to the condition it was in immediately before the work was begun. Local government standards shall control if they conflict with the above provisions. The easements granted in this Section shall be perpetual and shall run with the land.

- grant to the Declarant's Easements. The Declarant hereby reserves to itself and the Owners grant to the Declarant a blanket easement over, upon, through and under the Property, including, without limitation, all Lots and Common Property, for all purposes reasonably required in developing the Planned Community including, without limitation, ingress and egress for the construction, alteration and completion of improvements developed on the Property or the installation, maintenance, repair and replacement of the STEP System as well as all utility and service lines and systems serving one or more of the Lots or the development and sale of additional property regardless of whether such additional property is subjected to this Declaration, and the sale of Lots. Declarant's easement for the location of utility facilities of any nature shall include 5 feet along each side of all Lots. The easement herein reserved shall include the right to store materials on the Common Property at such places and for such periods as may be reasonably required to affect the purposes for which this easement is reserved. The easement shall be perpetual, shall run with the land, and shall be freely assignable by the Declarant.
- 6.4 Owners' Easement of Enjoyment. Subject to the provisions of this Declaration, the Bylaws, and Rules and Regulations of the Association, every Owner shall have a nonexclusive right and easement of enjoyment in and to the Common Property, which shall be appurtenant to and shall pass with the title to every Lot. The STEP System shall be available for use by any Owner. This easement for use of the STEP System shall automatically terminate at such time as the ownership of the STEP System reverts to Declarant pursuant to Section 1.16 or as otherwise provided in this Declaration.
- **6.5 Extent of Owners' Easements.** The Owners' easements of enjoyment created hereby shall be subject to the following:
- **6.5.1 Subject to Rules and Fees.** The right of the Association to establish reasonable rules and to charge reasonable assessments and fees for capital expenditures on the Common Property and the maintenance and upkeep of the Common Property and payment of all Association expenses.
- 6.5.2 Suspension of Owner's Right. The right of the Association to suspend the right of an Owner or any occupant of a Lot to use the Common Property and facilities for any period during which any assessment against such Owner or occupant's Lot remains unpaid for more than thirty (30) days after notice of such nonpayment; the right of the Association to suspend the right of a member to use any Common Property for a period not to exceed sixty (60) days for any other infraction of the Declaration, Bylaws or the Rules and Regulations of the Association. Provided, however, that no such suspension pursuant to this subsection shall deprive an Owner of access to his or her Lot.
- 6.6 Sale of Common Property. As provided by ORS 94.665, the Association may sell, dedicate or transfer any portion of the Common Property or create a security interest therein. Except as to the grant of easements for utilities and similar or related purposes, no such sale,

dedication or transfer shall be effective unless approved by eighty percent (80%) of the votes of both Class A and Class B members. Provided further, if there is only one class of votes, such sale, dedication or transfer (except for utility and similar easements) must be approved by eighty percent (80%) of the votes held by Owners.

- **6.7 Declaration of Use.** Any Owner may delegate his or her right of enjoyment to the Common Property and facilities to the members of the Owner's family and to a reasonable number of guests subject to general regulations as may be established from time to time by the Association and included within the Book of Resolutions.
- Common Property is damaged or destroyed by an Owner or any of his or her guests, tenants, licensees, agents or members of his or her family in a manner that would subject such Owner to liability for such damage under Oregon law, such Owner does hereby authorize the Association to repair such damage; the Association shall repair damage in a good and workmanlike manner as originally constituted or as the area may be modified or altered subsequently by the Association in the discretion of the Association. The reasonable cost necessary for such repairs shall become a special assessment upon the Lot of the Owner who caused or is otherwise responsible for such damage.

SECTION 7 GENERAL RESTRICTIONS ON USE OF COMMON PROPERTY

- 7.1 General. No person shall construct or reconstruct any improvements, or alter or refinish any improvement, make any excavation or fill, make any change in the natural or existing surface drainage or install a utility line or place any planting or equipment or object of any kind on the Common Property unless such person has first obtained approval therefor from the Architectural Review Board. This provision shall not, however, prohibit Declarant or the Association from installing, operating, maintaining, repairing and replacing portions of the STEP System on the Common Property.
- 7.2 Encroachments. If any portion of a Living Unit or other structure now or hereafter constructed on any Lot encroaches on any part of the Common Property or another Lot, such encroachment shall promptly be removed by the Owner of the Living Unit or structure.

SECTION 8 NATURAL FEATURE PROTECTIONS AND RESTRICTIONS

8.1 Natural Features. Declarant specifically desires to protect and maintain the natural features of the site. The Trails, the Bridge, and all Flora and Fauna, Riparian Ways, Natural Drainage and other natural features of the site, are to be maintained by the Homeowners' Association at the Homeowners' Associations sole expense and discretion.

- **8.2 Plant Guidelines.** It is desirable to maintain the indigenous flora and fauna on the site. The introduction of non-indigenous flora and fauna can be detrimental to the indigenous flora and fauna, therefore, attached hereto as Exhibit "E" is a guideline for landscaping to be installed on all lots of Sahhali South. This guideline is to be used to facilitate the Architectural Review Board when considering landscape plans as specified in Section 10.10.3 herein. Removal of indigenous flora and fauna in, on or around any of the common areas is strictly prohibited, unless the Homeowner obtains written permission for the removal from the Architectural Review Board.
- **8.3 Nature Trails.** The Trails, more particularly described on Exhibit "D" attached hereto are pedestrian trails only.
- **8.3.1 Vehicles.** No bicycles, motorcycles, four wheelers, roller skates, skateboards, electric vehicles, or any other type of vehicle with wheels and/or a motor of any type are permitted on any portion of any of the trails described in Section 8.3 herein, except as necessary for use by handicap persons.
- **8.3.2 Maintenance**. The trails, described in Section 8.3 herein, will be professionally maintained, by a landscape company that has knowledge and experience with wetland plant protection and care. All maintenance expenses for any of the Trails is at the Homeowners' Association sole expense.
- **8.3.3 Domestic Animals.** Domestic pet owners are required to "clean up" after their animal(s) in, around, or on, any common areas of the property. Including, but not limited to, the Trails and other natural features described in Section 8 herein,
- **8.4** Wildlife. Due to the natural resources on site, Declarant desires to protect the existing wildlife and its habitat.
- **8.4.1 Indemnification**. The subject property is in an area known for big game, and furbearing animal use. Any and all present and future owners of lots on the subject property hereby agree to indemnify, save and hold harmless, the Oregon Department of Fish and Wildlife for any damages, and/or inconvenience caused by these animals to persons, real property and/or personal property. This agreement shall inure to the benefit in perpetually to all successors, heirs, and assignors. This agreement can not be deleted or altered in any way without prior contact and agreement by the Oregon Department of Fish and Wildlife.
- **8.5 Footbridge.** The footbridge on site which provides access to the beach shall be maintained in a safe and efficient manner. Prior to turn over of the common areas to the Homeowners' Association, the Declarant had the Bridge inspected for structural soundness, and safety. Any report associated with this inspection has or will be provided to the Homeowners' Association for their records.
- **8.5.1 Government Permits**. When performing maintenance or repair to the Bridge, the Homeowners' Association may be required to obtain permits form the

Oregon Department of State Lands, and/or Army Corps of Engineers. It is the sole and exclusive responsibility of the Homeowners' Association to determine if the proposed work requires a permit or not.

8.5.2 Consultants and/or Experts. It is the sole responsibility of the Homeowners' Association to determine if a Wetlands Specialist is required to be on site or any other consultant, is necessary during the repair and maintenance of the bridge or any of its components.

SECTION 9 OBLIGATIONS OF DECLARANT

- 9.1 Improvements in the Common Property. The Common Property will be improved with private roads, a water system and landscaping, and the STEP System will be constructed on Declarant's property, all as deemed necessary by the Declarant, or after the termination date, by the Association. It is contemplated that the improvements will be largely completed prior to conveyance of a Lot in Sahhali South to any Owner other than Declarant.
- Association the property identified on the plat creating the Lots as Common Property within sixty (60) days after 75 % of the Lots have been conveyed to Owners other than Declarant. Additional Common Property adjacent to Lots in Sahhali Shores that are subsequently annexed will be conveyed to the Association within ninety(90) days after such annexation. If the Common Property is ever assessed for property tax purposes separately from the Lots, whether prior or subsequent to transfer of the common property to the Association, the Association shall take such steps as may be necessary to assess all Owners equally for their share of such taxes and to pay such property taxes on a current basis.
 - 9.3 STEP System Improvements on Lots. Lots 1 through 56 of Sahhali South are required to hook up to the STEP system. No independent septic systems will be permitted on Lots 1 through 56 of Sahhali South. Declarant or the Association, at Declarant's direction, shall make the initial installation of dosing tank, dosing tank effluent pump and pressure effluent lines as necessary on each STEP System Lot pursuant to the standards required by the Oregon Department of Environmental Quality and any other governmental agency having jurisdiction over such installation. The projected expense of such installation shall be paid by the Owner of the affected Lot to the designated contractor performing installation under the direction of the Association or Declarant as appropriate upon request prior to the commencement of the work. Any amount due to the Association therefor shall be deemed to be a special assessment pursuant to Section 5.3(b).
- 9.4 No Additional Improvements Required of Declarant. Declarant has no obligation to make improvements beyond those described as Declarant's obligation in Sections 9.1 and 9.3 of this Declaration.

SECTION 10 USE RESTRICTIONS: ARCHITECTURAL CONTROLS AND MAINTENANCE RESPONSIBILITIES

10.1 General.

- 10.1.1 Governmental Restrictions. All uses, occupancy, construction and other activities conducted on any Lot shall conform with and be subject to applicable zoning, use restrictions, setback requirements, and construction and building codes of all local, state and federal public authorities.
- **10.1.2 Outdoor Storage.** No outdoor storage of recreational vehicles, trailers or boats shall be allowed on the Common Property or outdoors on any Lot.
- 10.1.3 Garages. No garage shall be used for any purpose other than storage of automobiles, pick-ups, vans, "four wheel drive vehicles" and motorcycles, if such vehicles are intended and used for ordinary highway transportation of passengers and to store golf carts. Additionally, recreational fishing or pleasure boats may be stored in one parking space of a garage if it can be completely enclosed when the garage door is closed. Provided however, at least one garage space shall be used for the family vehicle. Neither the driveway nor street shall be used for regular parking by Occupants.
- 10.1.4 Combination, Division. No Owner shall have the right to divide any Lot, except Lots 13 and 48, which are approved for a single division by the Conditions of Approval from Tillamook County, as part of the Conditions of Approval for Sahhali South. An Owner may combine lots, subject to approval of the Architectural Review Board. Not withstanding any other provision contained herein, Declarant shall have the right to combine lots, divide lots and perform lot line adjustments. Any Owner, upon compliance with the requirements of all applicable zoning, building and land use laws, regulations and ordinances, and the architectural requirements of the Declaration and any rules and regulations of the Association may construct (reconstruct or replace) one Living Unit on two or more Lots.
- 10.2 Use. All Lots shall be used primarily for residential, recreation and vacation purposes only. Neither any substantial commercial nor any retail or industrial use shall be allowed on any Lot. Provided however, subject to compliance with applicable laws and any rules or regulations of the Association, an Owner may rent his or her Living Unit on a nightly, monthly or other basis, even though such rental activity would usually be considered a commercial use.

10.3 Exterior Improvements.

10.3.1 Structures on Lots. No building shall be erected, altered, placed or permitted to remain on a Lot other than one attached or detached single family dwelling and a private garage or carport and except as are made more restrictive by these covenants, shall be in full compliance

with the zoning restrictions of Tillamook County.

10.3.2 Provisions for and Restrictions on Buildings.

- (a) The exterior of any structure erected on a Lot must be fully completed and painted with two (2) coats of stain, preservative, or paint within one (1) year after construction has commenced.
- (b) The external design of all buildings on a Lot are expected to reasonably harmonize with the buildings on other Lots. All auxiliary buildings are to be of the same general design and materials as the Living Unit. The primary exterior color tone of all buildings shall blend with the natural environment. Bright, unnatural exterior colors are prohibited, except for limited use as trim and accent panels. All Living Units, auxiliary buildings, fences, retaining walls and similar or dissimilar manmade structures shall be constructed in a good workmanlike manner in accordance with locally acceptable professional building practices. All material utilized shall reasonably harmonious with the other residences in the Planned Community.
- (c) The ground floor area of the main structure, exclusive of one story open porches, garages, and carports, shall not be less than that required by Tillamook County Building Codes, with a minimum ground floor area of 1600 sq. ft. single level or a total of 1800 sq. ft. in multiple stories.
- (d) All structures erected shall have full concrete, masonry, or concrete or wooden piers and piling foundations as approved by Tillamook County and designed to accommodate the terrain. Foundations and exterior walls of the building shall be finished in a suitable and customary manner for such type of building.
- (e) No building shall be erected on any Lot which building exceeds the height restrictions provided by Tillamook County.
- (f) Owners shall insure that design and construction of structures in the Planned Community will properly withstand the unique environmental coastal conditions including high winds, steep sites, heavy rainfall and a high level of corrosion including the protection of the coastal flora on the properties.
- (g) All Living Units shall be constructed on the Lot and mobile homes or factory built homes shall not be permitted. Panels constructed off site but assembled on the Lot are permitted.
- 10.3.3 Common Property. No Owner shall construct or place any structure, material, planting, equipment or any object of any kind on any portion of the Common Property, unless granted written permission by the Board of Directors, and then only in strict compliance with such authorization.

10.4 Exterior Maintenance, Repair and Replacement.

- **10.4.1** No Association Responsibilities. Except as provided in this Declaration regarding the STEP System, the Association has no obligation to perform any maintenance, repair or replacement of the exterior of Living Units, or any maintenance of any landscaping on the Lots.
- 10.4.2 Owner Responsibilities. Each Owner shall perform all maintenance, repair and replacement of the Owner's Living Unit, and shall perform all maintenance, planting, pruning, mowing and cleaning of all lawns and landscaping on such Owner's Lot. Each Owner shall be responsible for the maintenance, repair and replacement of any other improvements, or materials located within the Owner's Lot. Each Owner shall be responsible for all costs related to the installation, operation, maintenance, repair and replacement of the portion of the STEP System or any septic system on the Owner's Lot.
- 10.5 Underground Utilities. No outdoor overhead wire or service drop for the distribution of electric energy or for telecommunication purposes nor any pole, antennae, satellite receiving dish, tower or other structure for independent reception, transmission or support of any of the above shall be erected, placed or maintained within the Property. However, this provision shall not be construed or applied so as to impair an Owner's ability to receive video programming services over a satellite antenna 18 inches or less in diameter.
- Unit for any period of time, subject to full compliance with applicable laws, the Articles, Declaration, Bylaws and Rules and Regulations of the Association and applicable local, state and federal laws and regulations. All such leases or rental agreements shall be in writing and shall be deemed to provide that their terms shall be subject in all respects to the provisions of this Declaration, the Articles, Bylaws and Rules and Regulations of the Association and that any failure by the lessee or renter to comply with the provisions of such documents shall constitute a default under said lease or rental agreement. The lessee's or renter's use and enjoyment of the Common Property under such lease or rental agreement shall be subject to suspension by the Board of Directors for any of the causes set forth elsewhere in this Declaration, including, without limitation, the nonpayment of assessments with respect to the Lot occupied by the lessee or renter. Any such lessee or renter shall be entitled to the use and enjoyment of the Common Property; provided, an Owner may not sever the right to the use and enjoyment of the Common Property from the right to occupy his or her Lot and the improvements thereon by means of a lease, rental agreement or otherwise.
- 10.7 Accessory Buildings. Residential accessory buildings or improvements may be permitted upon review by the Architectural Review Board provided that these types of improvements are of pleasing architectural design and shall have the exterior painted and are located within the fenced in patio or court yards if such structure is separated from the Living Unit. All detached Living Units must provide a garage sufficient for a minimum of two vehicles. All other Living Units must provide a garage or carport for at least one vehicle for each Living Unit.
 - 10.8 Screening. All garbage, trash, cuttings, refuse, and garbage and refuse containers,

oil tanks, clothes lines, other service facilities, stored trailers, and RV's, shall be screened from view, from neighboring units and from common areas in a manner approved by the Architectural Review Board.

- 10.8.1 Residential Refuse. All Residential Refuse, garbage, and trash shall be maintained inside the enclosed garage of each structure, or outside in a "Certified Bear Proof" container (s) while awaiting disposal.
- **10.9** Nuisance. No noxious or offensive activity shall be carried on, on a Lot, nor shall anything be done or placed upon any Lot that interferes with or jeopardizes enjoyment of other Lots or within the Planned Community.
- obscures the view of the Pacific Ocean from any Living Unit, the Owner of such Living Unit may petition the Architectural Review Board for the trimming, topping, or removal of such tree, shrub, or other vegetation. Upon receipt of such a petition, the Architectural Review Board shall investigate the matter and determine whether said view is, in fact, blocked or substantially obscured. If the Architectural Review Board so determines in writing, then the offending tree, shrub, or other vegetation shall be trimmed, topped, or entirely removed. The Owner of the offending tree, shrub, or other vegetation shall be entitled to elect, within ten (10) days of the Architectural Review Board's determination, as to whether the offending tree, shrub, or other vegetation shall be trimmed, topped, or removed. In any event, the entire cost of trimming, topping, or removal shall be the sole responsibility of the petitioning Owner and the petitioning Owner shall indemnify the Architectural Review Board and the Board of Director's against any claim of damage that may be brought by another Owner(s) stemming from Owner's trimming, topping or removal.
- 10.10.1 Lot Specific View Protections. A Minimum set back of 50 feet from the embankment shall be maintained for Lots 38 and 39; A Minimum set back of 40 feet from the embankment shall be maintained for Lots 36 and 37; A Minimum set back of 30 feet from the embankment shall be maintained for Lots 34 and 35. Owner's of these lots may wish to seek approval from Tillmook County to relieve themselves of this restriction. The Homeowners' Association may at its discretion, chose to act or not act in favor of, in opposition of, or remain neutral regarding any and all applications that may be filed to alter this restriction, no matter who or what entity is filing an application for modification of this restriction.
- 10.10.2 Lot Specific Building Height Restrictions. Lots 28 through 39, 48A and 48 B, and 51 and 52 shall have a maximum building height of 24 feet.
- 10.10.3 Retention of Natural Environment. Declarant desires to maintain retention of the present natural environment. Normal trimming, pruning and topping of trees or removal of hazardous trees will be permitted in undeveloped areas without approval of the Association. The felling and removal of trees and growth that interfere with the construction or maintenance of a Dwelling Unit, septic system or road and driveway is permitted without approval of the Association. All other natural flora shall be maintained to minimize erosion and to maintain the coastal character of the Property, subject to the provisions of Section 10.10, and

Architectural Review Board approval of specific landscaping plans. While landscaping plans may be submitted, the intent of this section to discourage introduction of flora not already found on the site should be carefully considered by Owner's and their consultants. The Architectural Review Board shall be entitled to levy special assessments on Owners and lien Lots in the event of violations of this section.

- 10.10.4 Excavation. Cuts, scraping, and removal of soil and/or shrubs and vegetation may adversely affect septic approval for the Lots. Such activities on Lots including the felling and removal of trees and growth that interfere with the construction or maintenance of a septic system or road and access require the prior approval of the Architectural Review Board. The Architectural Review Board's activities shall consider the desire to maintain the coastal character of the Property and the desire for each Lot to maintain its own, on-site, septic disposal system where approved by the County.
- 10.11 Fences, Walls and Hedges. No fence, wall or hedge shall exceed six (6) feet in height. Owners, who desire a fence, are encouraged to use the same or similar materials in style as fencing in the areas near the Planned Community. In no event shall side yard fences project beyond the front walls of any Living Unit or any garage, nor in excess of twenty-five (25) feet beyond the rear walls of any Living Unit or any garage, except as allowed by the Architectural Review Board. No fence, wall or hedge shall be permitted within the minimum set back line and the property line nor to extend more than twenty-five (25) feet from the structure of the Living Unit. Prior to construction, designs of all fences, hedges or walls must be approved in writing by the Architectural Review Board. The walls and/or fences on any Lot shall not be altered without written consent of the Architectural Review Board.
- 10.12 Sight Line Protection. No hedge, shrub or tree planting which obstructs sight lines at elevations between two (2) and six (6) feet above the roadways shall be placed or permitted to remain in the vision clearance triangle. The vision clearance triangle is the triangle formed: 1) on a corner Lot by the street property lines and a straight line connecting them at points 25 feet from the intersections of the street property lines extended; or 2) at a driveway by the street property line and the edge of the driveway and a straight line connecting them at points 15 feet from the intersection of the street and the driveway. Hedges, shrubs and trees shall be permitted in the vision triangle provided the foliage line is maintained at a height that does not obstruct sight lines in the vision clearance triangle.
- 10.13 Set Backs. No building or fencing shall be located on any Lot nearer than twenty (20) feet to the front Lot line, or any side street line. Except for attached Living Units permitted under Section 10.3.1, no building or fencing shall be located nearer than fifteen (15) feet to an interior Lot line. Except for attached Living Units permitted under Section 10.3.1, eaves, steps, open porches and balconies shall not be permitted to extend closer than ten (10) feet to an interior Lot line. The Architectural Review Board may approve a proposal that does not comply with these requirements pursuant to the process set forth in Section 11.
- **10.14 Parking.** Adequate parking shall be provided for all vehicles of owners and guests on the residential lot where at all practical. Parking along the common roadway will be restricted.

10.15 Party Walls.

- 10.15.1 General Rules of Law to Apply. Each wall built as a part of a Living Unit which divides Living Units, and which is placed on the dividing line between Lots, shall constitute a party wall, and, to the extent not inconsistent with the provisions of this Declaration, the general rules of law regarding party walls shall apply thereto.
- 10.15.2 Sharing of Repair and Maintenance. The cost of repair and maintenance of a party wall shall be shared equally by the Owners whose Living Units are divided by such wall.
- 10.15.3 Weatherproofing. Notwithstanding any other provision of this Section, an Owner who by his or her negligent or willful act causes the party wall to be exposed to the elements shall bear the whole cost of furnishing the necessary protection against such elements.
- 10.15.4 Right to Contribution Runs With Land. The right of any Owner to contribution from any other Owner under this Section shall be appurtenant to the land and shall pass to such Owner's successors in title.
- **10.15.5 Arbitration.** In the event of any dispute arising concerning a party wall, or concerning the obligations of the Owners or the Association pursuant to the provisions of this Section, each party shall choose an arbitrator, and the arbitrators so chosen shall choose one additional arbitrator, and the dispute shall be resolved by a majority of all the arbitrators pursuant to the provisions of ORS 36.300 *et. seq.*, as amended.
- **10.16 Restrictions.** The restrictions contained in this Section may not apply to all future development. Declarant may elect to apply a separate set of covenants on future development may require a separate set of covenants in respect to the restrictions to be applied to individual Lot use.

SECTION 11 ARCHITECTURAL REVIEW BOARD

- 11.1 Composition. The Board of Directors shall serve also as an Architectural Review Board. A quorum for the Architectural Review Board action shall be a majority of its members. The Board of Directors may delegate the duties of the Architectural Review Board to a committee appointed by the Board composed of not less than three (3) Owners.
- 11.2 Duties. It shall be the duty of the Architectural Review Board to regulate the external design, appearance, location and maintenance of all the Property and of improvements thereon, whether on a Lot or Common Property, and to regulate use of such Property as described in this Declaration. The Architectural Review Board may, from time to time, adopt general rules to implement the purposes and interpret the covenants of this Section, including, but not limited to, rules less restrictive than those contained in this Declaration to regulate

animals and tenants, storage and use of recreational vehicles, storage and use of machinery, use of outdoor drying lines, trash containers, planting, maintenance and removal of vegetation of the Property.

11.3 Approval Required. No Living Unit, outbuilding, fence, wall or other structure of any type shall be commenced, erected or maintained upon the Property, nor shall any exterior addition to, change in, painting or staining of, or alteration to any Living Unit, outbuilding, fence, wall, or other structure on the Property of any type be made until the plans and specifications showing the nature, kind, shape, height, materials, color and location of the same shall have been submitted to and approved in writing by the Architectural Review Board as to the harmony of external design, materials, color, preservation of natural vegetation and location in relation to surrounding structures and topography. The Architectural Review Board may adopt an application fee for submittal and review of applications. During the period when Declarant fills all seats on the Architectural Review Board, the Association shall pay to Declarant the application fees collected, net of any copying and postage costs incurred by the association. During the period Declarant fills all seats on the Architectural Review Board the application fee shall be specifically delineated in the Rules and Regulations of Sahhali South Homeowners Association. The fees for Review may be changed at any time, by the Board of Directors of Sahhali South Homeowners Association. During the period Declarant fills all seats on the Architectural Review Board all application fees shall be remitted by the Association to the Declarant in compensation for Declarant's time in reviewing applications. Declarant is exempt from paying ARB fees regarding any and all property, lots or other area, either currently owned, or may be owned or annex into the Homeowners Association now or at any time in the future,

"Development" shall be defined as any grading, clearing, scraping, tree removal, planting, filling, or any other manipulation of the site or vegetation. "Tree" shall be defined as any variety of tree or large shrub with a trunk diameter at breast height ("DBH") equal to or greater than 4 inches.

Procedure. An Owner wishing to take any action requiring approval under this Section shall give notice of such proposed action to the Architectural Review Board, together with a completed application in the form specified by the Architectural Review Board and complete plans and specifications therefore. The Architectural Review Board may reject applications which are incomplete or request additional information. The Architectural Review Board shall provide notice of accepted applications to all Owners and such notice shall identify the Lot, the nature of the application, and the scheduled meeting date and place for the review of the application. Within 7 days of the notice date, an Owner may request a copy of the materials submitted in support of an application by providing written notice and a documentation fee of \$150. Not earlier than fifteen days after the mailing of the notice, the Architectural Review Board shall meet to review the Owner's request and shall render a decision by the vote of a majority of Board Members present. Such decision shall be rendered within forty-five (45) days of receipt of a complete application, provided however that no time shall be deemed to have elapsed from the time the Architectural Review Board requests additional information until such time as the requested information has been received. Interested Owners shall have an opportunity to comment on the application at all such meetings, which shall be open to all Owners, or may submit written comments. Except as provided herein, if the Architectural Review Board fails to

issue a written decision within the time allowed, the request shall be deemed to be approved. Requests seeking approval for actions not in compliance with the set back requirements of Section 10.13 shall be deemed denied unless a written decision approving the request is issued within the time allowed.

11.5 Appeal. The decision of the Architectural Review Board under this Section (including any failure to approve or disapprove within the time allowed) shall be subject to appeal by any Interested Owner as set forth in this Section. Upon the payment of a reasonable fee established by the Architectural Review Board to cover administrative costs any interested Owner may appeal the decision of the Architectural Review Board to the Association members. The appeal shall be made in writing and shall be filed with the Secretary of the Association within thirty (30) days of the decision of the Architectural Review Board. The Board of Directors shall call a special meeting or ballot to be held after ten (10) days notice and within thirty (30) days after the appeal has been filed with the Secretary of the Association. It shall require a vote of at least a majority of the votes of each Class of Association members to reverse or modify the decision of the Architectural Review Board. During the period Declarant fills all seats on the Architectural Review Board the appeal fee shall be specifically delineated in the Rules and Regulations of Sahhali South Homeowners Association. The fees for Appeal may be changed at any time, by the Board of Directors of Sahhali South Homeowners Association. During the period Declarant fills all seats on the Architectural Review Board all appeal fees shall be remitted by the Association to the Declarant in compensation for Declarant's time in reviewing appeals.

Any approval not appealed within the permitted time frame shall not be subject to later appeal and in such cases the decisions and actions of the Architectural Review Board's shall be deemed correct and without claims of further liability.

- 11.6 Exemptions. The following actions by the following persons shall be exempt from the provisions of this Section:
- (a) The planting of any shrubs, flowers or other plants (excepting trees) by any Owner within an enclosed courtyard or fenced area on such Owner's Lot;
- (b) Any act of the Declarant in developing any Lot or any portion of the Common Property in the Planned Community, whether or not annexed to the Association.

SECTION 12 EXPANSION

- 12.1 Right to Expand Planned Community. Declarant may annex additional properties to the Planned Community. Additional property shall be added to the Planned Community upon the filing by Declarant of one or more Supplemental Declarations.
 - 12.2 Content of Supplemental Declarations. Each Supplemental Declaration shall

contain, at least, the following provisions:

- 12.2.1 Cross-References. Each Supplemental Declaration shall reference this Declaration (or as subsequently amended) including the date of recordation hereof and the book and page number where this Declaration is recorded.
- **12.2.2 Statement of Application.** A statement that the provisions of this Declaration shall apply to the annexed property.
- 12.2.3 **Description of Additional Property.** A legal description of the property to be annexed.
- **12.2.4 Description of Common Property.** A description of the Common Property, if any, located within the property to be annexed.
- **12.2.5 Statement of Right.** A statement that the annexation is pursuant to the right of the Declarant as provided in this Declaration.
- 12.3 Additional Common Property. There is no limitation on the right of Declarant to annex additional Common Property to the Planned Community by following these procedures.
- **12.4** Additional Lots. There is no limitation on the number of Lots that may be created or annexed to the Planned Community.
- 12.5 Association Membership. Membership in the Association shall be expanded upon the recording of the Supplemental Declaration to include the Owners of annexed property. The new members shall thereafter have the rights and obligations established in this Declaration. This Declaration shall apply to the annexed property in the same manner as if such property had originally been subject to it and had originally constituted a portion of the Property. Thereafter, the rights, privileges, duties and liabilities of the Members and the burdens and benefits of the land shall be the same as though the annexed property had originally been subject to this Declaration.
- **12.6 Assessments.** The Owner of annexed property shall be subject to prorated Assessments for the balance of the fiscal year in which the Supplemental Declaration is recorded, and shall not be liable for Assessments prior to that date, provided, however, that Declarant shall be exempt from Assessments.

SECTION 13 DECLARANT'S SPECIAL RIGHTS

Until all Lots on the Property have been sold, with respect to the Common Property and each Lot, Declarant shall have the following special rights:

13.1 Sales Office and Model. Declarant shall have the right to maintain, or permit another to maintain, a sales office and model on one or more of the Lots. The Declarant,

permitted parties, purchasers and prospective purchasers and their respective agents shall have the right to use and occupy the sales office and models during reasonable hours any day of the week.

- 13.2 "For Sale" Signs. Declarant may maintain a reasonable number of "For Sale" signs at reasonable locations on the Property, including, without limitation, the Common Property.
- **13.3 Declarant Easements.** Declarant has reserved easements over the Property as more fully described in Section 6 hereof.
- **13.4 Expansion.** Declarant may annex additional property to the Planned Community pursuant to Section 12.
- 13.5 Additional Improvements. Declarant may construct additional improvements on the Common Property that Declarant determines may be beneficial for the development of the Planned Community.
- 13.6 Reversion of the STEP System. Declarant may terminate the easement for the drainfield and pumping station for the STEP System. The right to rescind the easement may only be exercised when all Lots served by the STEP System have connected to a public sewerage system or alternate facilities adequate to serve their needs for disposal of domestic sewage. The withdrawal shall occur upon satisfaction of the forgoing condition and the recordation by Declarant of a notice of recision in the records of Tillamook County.

SECTION 14 CONDEMNATION OF COMMON PROPERTY

In the event that all or any portion of the Common Property is appropriated as the result of condemnation or threat or imminence thereof, the following rules and guidelines shall apply:

- 14.1 Representation by Association. The Board of Directors shall have the sole authority, right and duty to represent each of the Owners for the purpose of negotiating and contesting, if it deems so doing to be necessary or appropriate, any condemnation award offered by the condemning authority in question and may authorize expenditures and assessments to retain adequate counsel or other experts for such purposes.
- 14.2 Allocation of Condemnation Award. The Board of Directors of the Association shall allocate and distribute any condemnation award received by it with respect to the Common Property to the Owners in proportion to the diminution in fair market value incurred by them with respect to their respective Lots and improvements as a result of said condemnation.
- 14.3 Arbitration. In the event of any controversy by, among or between any Owner or Owners and the Board of Directors arising under this Section, each of the disputing parties shall choose one (1) arbitrator and such arbitrators shall choose one (1) additional arbitrator. The three (3) arbitrators shall resolve the controversy by majority vote and said decision shall be final,

binding and unappealable upon the disputing parties. Any action or decision of the Board of Directors pursuant to this Section shall carry a rebuttable presumption of correctness for purposes of arbitration pursuant to this Section. The disputing parties each shall pay all the fees and expenses of the arbitrator designated by each of them and shall pay equally all fees and expenses of the third arbitrator. The disputing parties each shall pay their own expenses in connection with the arbitration.

14.4 Retention of Rights. No provision of this Section shall be construed as negating the right of the individual Owners to such incidental relief as the law may provide as a result of the condemnation of the Common Property.

SECTION 15 GENERAL PROVISIONS

- 15.1 Records. The Board of Directors shall preserve and maintain minutes of the meetings of the Association, the Board and any committees. The Board of Directors shall also keep detailed and accurate financial records including individual assessment accounts of Owners, the balance sheet and income and expense statements. Individual assessment accounts shall designate the name and address of the Owner or Owners of each Lot, the amount of each assessment as it becomes due, the amounts paid upon the account, and the balance due on the assessments. The minutes of the Association, the Board and committees, and the Association's financial records shall be reasonably available for review and copying by the Owners. A reasonable charge may be imposed by the Association for providing copies.
- Indemnification of Directors, Officers, Employees and Agents. The Association shall indemnify any Director, Architectural Review Board member, officer, employee or agent who was or is a party or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative (other than an action by the Association) by reason of the fact that he or she is or was a Director, officer, employee or agent of the Association or is or was serving at the request of the Association as a Director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise, against expenses (including attorney fees), judgments, fines and amounts paid in settlement actually and reasonably incurred by said person in connection with such suit, action or proceeding if he or she acted in good faith and in a manner he or she reasonably believed to be in, or not opposed to, the best interest of the Association, and, with respect to any criminal action or proceedings, had no reasonable cause to believe his or her conduct was unlawful. The termination of any action, suit or proceeding by judgment, order, settlement, conviction, or with a plea of no contest or its equivalent, shall not of itself create a presumption that a person did not act in good faith and in a manner which he or she reasonably believed to be in, or not opposed to, the best interest of the Association, and, with respect to any criminal action or proceedings, had reasonable cause to believe his or her conduct was unlawful. Payment under this clause may be made during the pendency of such claim, action, suit or proceeding as and when incurred, subject only to the right of the Association, should it be proven at a later time that said person had no right to such payments. All persons who are ultimately held liable for their actions on behalf of the Association as a Director, officer, employee or agent shall have a right of contribution over and against all other Directors, officers, employees or

agents and members of the Association who participated with or benefited from the acts that created said liability.

The Association shall indemnify Declarant from any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative, relating to the Declarant's actions on behalf of the Association, its Board of Directors or Architectural Review Board, brought by the Association, or any person who is an Owner.

- shall have the right to enforce all of the covenants, conditions, restrictions, reservations, easements, liens and charges now or hereinafter imposed by any of the provisions of this Declaration as may appertain specifically to such parties or Owners by any proceeding at law or in equity. Failure either by the Association or by any Owner or mortgagee to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of their right to do so thereafter. In the event suit or action is commenced to enforce the terms and provisions of this Declaration, the prevailing party shall be entitled to its attorney fees and costs in such suit or action to be fixed by the trial court, and in the event of an appeal, the cost of the appeal, together with reasonable attorney fees, to be set by the appellate court. In addition, the Association shall be entitled to its reasonable attorney fees incurred in any enforcement activity taken to collect delinquent assessments, whether or not suit or action is filed.
- 15.4 Severability. Invalidation of any one of these covenants or restrictions by judgment or court order shall not affect the other provisions hereof and the same shall remain in full force and effect.
- 15.5 Duration. The covenants and restrictions of this Declaration shall run with and bind the land for a term of thirty-five (35) years from the date of this Declaration being recorded, after which time they shall be automatically extended for successive periods of ten (10) years, unless rescinded by a vote of at least ninety percent (90%) of the Owners and ninety percent (90%) of the first mortgagees. Provided however, amendments that do not constitute rescission of the Planned Community may be adopted as provided in Section 15.6.
- 15.6 Amendment. As provided by ORS 94.590 and except as otherwise provided in Sections 15.5 and 15.9, and the restrictions set forth elsewhere herein, this Declaration may be amended at any time by an instrument approved by not less than seventy-five percent (75%) of the total votes of each class of members that are eligible to vote. Any amendment must be executed, recorded and certified as provided by law. Provided, however, that no amendment of this Declaration shall effect an amendment of the Bylaws, the Articles of Incorporation without compliance with the provisions of such documents, and the Oregon Non-Profit Corporation Act. Provided further, no amendment affecting any right of the Declarant herein contained may be effected without the express written consent of the Declarant.
- 15.7 Rights of Mortgagees. Any holder of a first mortgage or equivalent lien on any Lot and/or the improvements located thereon, upon written request to the Board of Directors of the Association, shall have the right to:

- (a) Receive timely written notice of meetings of the Association;
- (b) Receive timely written notice of any proposed abandonment, termination or contraction of this planned unit development;
- (c) Receive timely written notice of any material amendment of the Declaration or the Articles of Incorporation or Bylaws of the Association;
- (d) Receive timely written notice of any decision by the Association to terminate professional management and to assume self-management of the Property, if the Association previously has retained professional management services;
- (e) Inspect the financial records and similar documents of the Association at reasonable intervals during normal business hours;
- (f) Receive written notice of substantial damage to or destruction of any Lot and/or the improvements thereon or the Common Property and/or any improvements thereon; and
- (g) Receive timely written notice of any condemnation or eminent domain proceeding affecting the Common Property or any portion thereof.
- 15.8 Release of Right of Control. The Declarant may give up its right of control in writing at any time by notice to the Association.
- Declaration in order to comply with the requirements of the Federal Housing Administration of the United States, the Federal National Mortgage Association, the Government National Mortgage Association, the Federal Home Mortgage Loan Corporation, any department, bureau, board, commission or agency of the United States or the State of Oregon, or any other state in which the Lots are marketed and sold, or any corporation wholly owned, directly or indirectly, by the United States or the State of Oregon, or such other state, the approval of which entity is required in order for it to insure, guarantee or provide financing in connection with development of the Property and sale of Lots. Prior to the turnover meeting, no such amendment shall require notice to or approval by any Class A member.
- 15.10 Estoppel Certificate. Within fifteen (15) working days after written request is delivered to the Association by an Owner, the Board shall provide such Owner with an estoppel certificate executed by a member of the Board certifying, with respect to any Lot owned by the Owner, that as of the date thereof, either: all improvements made to such Lot by the Owner comply with this Declaration, or such improvements do not comply, in which event the certificate shall also identify the noncomplying improvements and set forth the nature of such noncompliance. Any purchaser in due course from the Owner, and any mortgagee or other encumbrancer, shall be entitled to rely on such certificate with respect to the matters set forth therein, such matters being conclusive as between the Association, and all Owners, and such purchaser or mortgagee.

- **15.11 Defenses.** It shall be a defense to claims brought against a Lot Owner pursuant to this Section in respect to matters within the purview of the Architectural Review Board, where an Estoppel Certificate as described in Section 15.10 was issued and where the offending improvement was in existence at the time of the issuance of the Estoppel Certificate.
- 15.12 Liability. The scope of the Association's review is not intended to include any review or analysis of structural, geophysical, engineering, or other similar considerations. Neither the Association nor any member shall be liable to any Owner, Occupant, builder or developer for any damage, loss or prejudice suffered or claimed on account of any action or failure to act of the Association or any member.
- **15.13** Recitals. The Recitals are incorporated in this Declaration, in full by this reference.

DATED this House day of December 200 6.

DECLARANT:

Sahhali South, LLC

By: SYCAN B CORP., its Managing Member

By:

Richard D. Boyles, President

STATE OF OREGON,)
) ss.
County of Lane)

This instrument was acknowledged before me this \(\bigcup_{\text{day}} \) day of \(\bigcup_{\text{day}} \). Boyles, President of Sycan B Corp., Managing Member of Sahhali South, LLC.



Notary Public for Oregon
My Commission Expires: ()7/01/09

After Recording Return to:

Sahhali South Homeowner's Association 840 Beltline Rd., Suite 202 Springfield, Or. 97477

Tax Statements:

No change

Tillamook County, Oregon 07/12/2007 03:42:41 PM

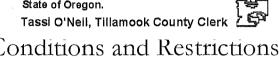
2007-005825

DEED-ADCCR

\$10.00 \$11.00 \$10.00 - Total = \$31.00



I hereby certify that the within Instrument was received for record and recorded in the County of Tillamook, State of Oregon.



Addendum One to Covenants, Conditions and Restrictions of Sahhali South

THIS Addendum One is made on _

2007, by Sahhali South, LLC, (Declarant).

RECITALS

- Declarant is the owner of the real property described in Exhibit "A" attached, including Lots 1 through 56, excluding Lots 7, 8, 42, and 43, which are owned by Butterfield Homes, Inc. as depicted in the plat of Sahhali South filed in the Plat Records of Tillamook County, Oregon, at instrument number #2007-001312 and stored at Plat Cabinet B-987-0, and also stored in the County Surveyor's Office as C-552.
- The Declarant hereby adds the definition of "Open Space" as follows to the Declaration of Covenants, Conditions, and Restrictions of Sahhali South Homeowner's Association.

"Open Space" means all of the real property described in Exhibit "A" other than Lots 1 through 56 and the roads depicted on the plat of Sahhali South filed on February 15, 2007 in the Plat Records of Tillamook County, Oregon as Instrument Number 2007- Instrument #2007-001312 (Plat). Open Space includes, but is not limited to, the area depicted as Open Space on the Plat. No part of the Open Space will become Common Property unless and until such Open Space has been conveyed to the Association by or through the Declarant. Any part of the Open Space will become part of the Common Property at such time as it is conveyed to the Association by or through the Declarant.

/// /// ///

Page 1 of -2 Addendum One to Declaration of Covenants, Conditions and Restrictions of Sahhali South

NOW, THEREFORE, the Declarant adds the definition of "Open Space" as stated in this Addendum to the original Declaration of Covenants, Conditions and Restrictions of Sahhali South, Recordation number 2007-001308, in Tillamook County Records on February 15, 2007.

DATED this $2/\sqrt{\text{day of}}$ $\frac{1}{\sqrt{\text{day of}}}$ $\frac{2007}{}$.

DECLARANT:

SAHHALI SOU	JTH, LLC	•	
By: SYCAN B	CORP., its l	Managing	Member

Bv:

Richard D. Boyles, President

BUTTERFIELD HOMES, INC.

Timothy J. Henton, President

STATE OF OREGON,)
) ss.
County of Lane)

This instrument was acknowledged before me this 2181 day of D. Boyles, President of Sycan B Corp., Managing Member of Sahhali South, LLC.



Notary Public for Oregon My Commission Expires: 7

STATE OF OREGON,) ss.
County of Lincoln)

This instrument was acknowledged before me this day of timothy J. Henton, President of Butterfield Homes, Inc.

OFFICIAL SEAL
WHITNEY T LANDES
NOTARY PUBLIC - OREGON
COMMISSION NO. 388695
MY COMMISSION EXPIRES FEB. 1, 2009

Notary Public for Oregon
My Commission Expires: 02/01

Page 2 of -2 Addendum One to Declaration of Covenants, Conditions and Restrictions of Sahhali South

Tillamook County, Oregon 12/27/2007 02:11:49 PM DEED-ADCCR

2007-010474

DEED-ADCCR \$15.00 \$11.00 \$10.00 - Total = \$36.00

000686542007001047400300 I hereby certify that the within instrument was received for record and recorded in the County of Tillamook, State of Oregon.

Tassi O'Neil, Tillamook County Clerk

After Recording Return to: Sahhali South Homeowner's Association 840 Beltline Rd., Suite 202 Springfield, Or. 97477 Tax Statements: No change

Addendum Two to Covenants, Conditions and Restrictions of Sahhali South

THIS Addendum Two is made on Du. 31

_2007, by Sahhali South, LLC, (Declarant).

RECITALS

WHEREAS, the Declarant is the owner of the real property described as follows:

Sahhali South, Lots 1 through 56, excluding Lots 7, 34, 35, 42, 43, 44 and 45, as depicted in the plat of Sahhali South filed in the Plat Records of Tillamook County, Oregon, at instrument number #2007-001312 and stored at Plat Cabinet B-987-0, and also stored in the County Surveyor's Office as C-552, according to the official plat thereof, recorded February 16, 2007, Records of Tillamook County, Oregon.

TOGETHER WITH easements for access as set forth on the above plat and in instruments recorded April 11, 2005, as 2005-002940 and 2005-002941, Records of Tillamook County, Oregon. ALSO TOGETHER WITH fire and emergency access easement recorded December 13, 2006, as 2006-010737, Records of Tillamook County, Oregon.

A. The Declarant hereby adds the following clause to the Declaration of Covenants, Conditions, and Restrictions of Sahhali South Homeowner's Association, at Section 5 Covenants for Maintenance Assessments/ Special Assessments and Common Profits, Specifically Section 5.2.2 by adding the following provision:

5.2.2 (e) The Declarant shall be entitled to full reimbursement of all reasonable operating expenses paid by the Declarant to maintain the property commonly known as Sahhali South from the time of the recordation of the plat on February 15, 2007, Plat Records of Tillamook County, Oregon, at instrument number #2007-001312 and stored at Plat Cabinet B-987-0, and also stored in the County Surveyor's Office as C-552, until such time as the Homeowner's Association is turned over to the Homeowner's Association as detailed in Section 4, pages 5 & 6 of the recorded Covenants, Conditions and Restrictions, dated December 11, 2006, and recorded on February 15, 2007 in the Records for Tillamook County, recordation number 2007-001308.

The Declarant reserves the right to call the entire amount due for invoiced expenses to operate and maintain said property as stated above. The Declarant may chose to collect the entire amount of invoiced expenses at the time of turn over to the Homeowner's Association as referenced above, or forgive all or any portion of the invoiced expenses.

C. This provision is for the reimbursement of Operating Expenses only and does not include any

Page 1 of -3 Addendum Two to Declaration of Covenants, Conditions and Restrictions of Sahhali South

portion of the Capital Replacement Reserves as specified in Section 5 Covenants for Maintenance Assessments/ Special Assessments and Common Profits, Specifically Section 5.2.2 (b).

D. The Declarant shall provide copies of all invoices paid that it is seeking reimbursement of under this Amendment.

NOW, THEREFORE, the Declarant adds above specific provisions as Addendum number Two, to the original Declaration of Covenants, Conditions and Restrictions of Sahhali South, Recordation number 2007-001308, in Tillamook County Records on February 15, 2007.

DATED this 21 5T December 200 7.

DECLARANT:

SAHHALI SOUTH, LLC	
By: SYCAN B CORP., it	ts Managing Member
By: // 507/	s services and the
Richard D. Boyles, Pr	resident

BUTTERFIELD HOMES, INC.

Timothy J. Henton, President

STATE OF OREGON,) ss County of Lane)

This instrument was acknowledged before me this 215 day of Deliminary day of Deliminary D. Boyles, President of Sycan B Corp., Managing Member of Sahhali South, LLC.

OFFICIAL SEAL
WHITNEY T LANDES
NOTARY PUBLIC - OREGON
COMMISSION NO. 388695
MY COMMISSION EXPIRES FEB. 1, 2009

Notary Public for Oregon
My Commission Expires:

ADDITIONAL ACKNOWLEDGEMENT ON NEXT PAGE

STATE OF OREGON, County of Lincoln

This instrument was acknowledged before me this

Timothy J. Henton, President of Butterfield Homes, Inc.

Motary Public for O My Commission Expires: Z

Sahhali South

A Planned Development

Landscape Guidelines
August 2006

Landscaping Guidelines and Recommendations

Sahhali South August 2006

LANDSCAPE DESIGN PHILOSPHY

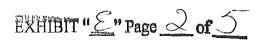
Sahhali South is a unique neighborhood in the community of Neskowin. The development of Sahhali South is unusual in its attempt to preserve the natural beauty of the area and site integrity of individual homesites while allowing diversity in home and landscape design.

These guidelines are intended to help you, your landscape designer/architect and your landscape contractor understand the rules and guidelines and the necessary approval process relating to the landscaping of your homesite.

These guidelines are intended to function in concert with the Bylaws, Rules and Regulations, and CCRs of Sahhali South Homeowner's Association, LLC.

Extensive landscaping is not required or encouraged. However, all homesites are required to be maintained in a neat and orderly condition that creates a pleasing appearance form all vantage points located off of the individual parcels. If a homeowner elects to maintain the entire property in a natural condition, steps must be taken to restore unsightly scarred areas that were produced from construction activity, and to remove dead plants and refuse from the entire site.

Individual homesites should be treated in a casual, fluid manner in order to integrate comfortably with the natural setting of Sahhali South. Lawn edges should be serpentine rather than straight and square-cornered. Formal,



regimented planting arrangements are strongly discouraged. Shrubs, tress and other plant materials should be arranged in groupings, rather than in straight rows.

Landscaping construction must be finished within one (1) year of substantial completion of the exterior of the home.

WIND

The single greatest factor in determining which plants will survive in Sahhali South coastal shoreline environment is wind. Typical of the Oregon coast, prevailing winds are landward, coming from a generally northwest direction during the warmer summer months. During the winter months, the predominant wind direction is generally from the south. Gale force winter winds can reach speeds of over 100 miles per hour. Of greatest concern from a landscaping perspective are the strong summer winds and those which occur during the spring months. Strong winds carrying warm temperatures can quickly dehydrate new spring growth, causing severe damage or death to many plant species, including those on the Recommended Plant List. Severe wind damage during the winter months is less of a concern because plants are then formant, although gale force winds will almost certainly cause damage to most plants unless suitable precautions are taken to screen plants from the strongest winds by man-made features or the planting of suitable screening vegetation.

SOILS

Soils in the area are of the Neskowin, Hembre and Winema soil associations. These soils are generally deep, well drained and relatively high in organic material, and very acid with Ph levels of 5.0 or lower. Annual rainfall ranging from roughly 64 to 132 inches per year influences soil acidity and appropriate plan materials.

PLANT RECOMMENDATIONS

A recommended plant list has been selected as a sampler of materials which may be used. They were selected for their particular adaptability to the climate and weather conditions of the Oregon coast, and the soils which occur within the Sahhali South property.

RECOMMENDED PLANT LIST

Sahhali

Plant Type/Name

Trees

Arbutus menziesii - Madrone Arbutus unedo - Strawberry tree Betula - Elirch, esp. European White Birch Calocedrus decurrens Incense Cedar

Cupressus macrocarpa - Monterey Cypress

Ligustum lucidum Glossy Privet
Myrica California - Pacific Wax Myrite

Picea - Spruce, Sitka

Picea abies - Norway Spruce Pinus contorta - Shore Pine

Pinus thunbergil - Japanese Black Pine Populus nigra 'Italica' - Lombardy Roplar

Pseudotsuga menziesii - Douglas Fir

Quercus ilex - Holly Oak

Robina pseudoacacla - Black Locust

Salix species - Willow, native

Sequeia sempervirens - Coast Redwood

Thuja plicalta - Western Red Cedar, native

Shrubs

Abelia X grandillora - Glossy Avella

Arctostaphylos columbiana - Hally Manzanita, native

Arctostaphylos manzanita - Common Manzanita

Aucuba japonica - Japanese Aucuba

Azelea, Kurume varieties

Baccharis, pilularis - Coyote Brush/Dwarf Chaparral

Berberis darwinii - Darwin Barberry

Berberis Wilsoniae - Wilson Barberry

Buxus sempervirens - English Edxwood

Caragana arborescens - Siberlan Peashrub

Ceanothus thyrsiflorus - Wild Lifac (Snow Flurry)

Chamaecyparis obtusa - False Cypress

Cistis species - many varieties

Cistus - Rockrose

Cortaderia solloana - Pampas Grass Cotoneaster species - many varieties

Cytisus and Genista - Broom (various)

Cytisus species - Broom (many varieties)

Escallonia (various) Escallonia species

Euonymus fortunel - many varieties

Comments

Evergreen tree or large shrub

Shrub-tree; drought tolerant

Requires ample water and fertilizer

Symmetrical treet to 75-90 feet

Fast growth to 40 feet

Round-headed tree to 40 feet or large shrub; fast growing

Drought tolerant

Do not plant near home or walks

Fast growth to 100-150 feet; many varieties

Fairly fast growint to 20-35 feet; dense foliage

Fast growth to 100 feet; adapts well to pruning

Fast growth to 40-100 feet; columnar tree; invasive roots

Sharply pyramidal form when young

Moderate growth to 40-70 feet and equal spread

Fast growth to 75 feet; aggressive roots; drought tolerant

Fast growth; requires ample water

Fast growth; requires ample water

Pyramidal shape

Evergreen to partially deciduous; growth to 8 feet; prune selectively

Low growing; evergreen; sun

Growth to 6-20 feet tall; evergreen; sun

Accepts deep shade; variegated forms

Ample water; amend soil with organic material when planting

Drought tolerant;

Growth to 5-10 feet tall; orange-yellow flowers

Grwoth to 6 feet; fine textured foliage; yellow flowers in clusters

Dense foliage; growth to 15-20 feet tall; good hedge shrub

Deciduous shrub or small tree; fast growth to 20 feet

Growth to 6-10 feet tall and 8-12 feet wide; white flowers

Serveral varieties dwarf to 50 feet

Climbing evergreen vines; easy to grow

Evergreeen; sun; spring flowers

Fast growth; difficult to control size

Vrgorous growth; full sun

Drought tolerant; sun; prune after blooming

Full sun; prune after bloom

Fast recovery from damage; evergreen; sun; fast growth

Evergreen; many varieties; fast recovery from freeze damage

Evergreen vine or shrub; sun or full shade

Hobe (purple blooming varieties)
Hobe buxifolia Boxleaf Hebe
Hydrangea species - many varieties
Juniperus species - many varieties
Kniphofia uvaria - Red-hot Poker
Phormium tenax - New Zealand Flax

Photinia fraseria

Pinus, muga - Mugho Pine

Prunus caroliniana - Carolina Laurel Cherry

Prunus laurocerasus - English Laurel

Prunus Iusitanica - Portugal Laurel

Pyracantha species - Firethorn

Rhamnus alaternus - Italian Buckthorn

Rhamnus californica - Coffeeberry

Rhododendron (various)

Ribes aureum, native - Golden Currant

Ribes sanguineum, native - Pink Winter Currant

Rosa rugosa - Ramanas Rose; Sea Tomato

Rosmarinus officinalis - Rosemary

Salix discolor - Pussy Willow

Sambucus callicarpa, natvie - Coast Red Elderberry

Senecio greyi

Spartium junceum - Spanish Broom

Spiraea species - Many Varieties

Vaccinium ovatum, natvie - Evergreen Huckleberry

Viburnum tinus - Laurustinus

Evergreen; last growth to 3-5 feet; drought tolerant; sun

Evergreen; fast growth to 3-5 feet; drought tolerant; sun

Deciduous; large bold flowers and follage; grow in rich well-drained soil

Evergreen shrubs and trees; sun

Drought tolerant; full sun

Swordlike vertical leaves to 9 feet long; allow plenty of space

Evergreen shrub; growth to 10 feet tall

Prostrate shrub

Evergreen shrub or tree; growth to 35-40 feet

Evergreen; vigorous; fast growth to 30 feet tall and wide

Evergreen; less vigorous than English Laurel but better in wind

Evergreen shrub; bright red-orange fruit; thorns; sun

Evergreen shrub; fast dense growth to 12-20 feet

Evergreen shrub; growth to 3-15 feet tall; drought tolerant

Requires ample water; amend soil when planting; shield from wind

Deciduous shrub; growth to 3-6 feet tall; irrigation Deciduous shrub; growth to 4-12 feet tall; irrigation

Deciduous shrub; vigorous and very hardy; growth to 3-8 feet; red fruit

Evergreen shrub; growth to 2-6 feet tall

Shrub or small tree; growth to 20 feet

Deciduous shrub to 8 feet tall; ample irrigation

Evergreen shrub; spreading plant that grows 4-5 feet tall; sun Evergreen shrub; growth to 6-10 feet; dense growth; flowering

Evergreen shrub, growth to e-to lear, dense growth, howe

Deciduous shrubs; flowering

Evergreen shrub; sun or part shade

Evergreen shrub; growth to 6-12 feet tall; dense follage

Groundcover

Arctostaphylos uva ursi - Kinnikinnick

Ceanothus griseus horizontalis - Carmel Creeper

Crocosmia, crocosmiillora - Montbretta

Hebe pinguitolia

Hypercum calycinum - Creeping St. Johnswort

Juniper conferta - Shore Juniper

Lithospermum species

Lonicera Japonica - Japanese Honeysuckie

Native grasses - many varieties

Spreading to 15 feet wide; good on slopes; keep soil moist

Growth to 18-30 inches tall and 5-15 feet wide; flowering lilac variety

Good for slopes; flowering

Creeping shrub 1-3 feet tall; flowering

Evergreen creeping shrub to 1 foot tall; yellow flowers

Prostrate, trailing habit; bright green foilage Perennial; prostrate mound 6-12 inches tall; sun

Evergreen vine; rampant; erosion control on steep banks; drought resistant

Obtain from local sources.

Sources:

American Horticultural Society Encyclopedia of Garden Plants 1989

Brown's Rose Lodge Nursery (Wally Brown), Otls, Oregon

Coastal Landscaping by Bill Rogers, American Nurseryman; February 15, 1991

Ortho's Complete Guide to Successful Gardening 1983

Sandy's Nursery & Garden Center (Bill Howard), Tillamook, Oregon

Sunset New Western Garden Book 10th ed. 1986

EXHIBIT "2" Page 5 of 5

EXHIBIT 2.1: DEVELOPMENT SUMMARY STATEMENT FOR SAHHALI SOUTH MASTER DEVELOPMENT PLAN

I - GENERAL

Property Location: The subject property is located on the west side of Highway 101 approximately one and one-half miles north of the unincorporated community of Neskowin in Tillamook County, Oregon. The property is further identified as Assessor's Map 5S 11 24 Tax Lot 200 and Assessor's Map 5S 11 13 Tax Lot 600.

Property Description: The subject property is characterized by three distinct features: a gently sloping, long ridge that runs generally northeast to southwest through the center of the property; a significant marsh/wetlands that surrounds the base of the ridge on the west, south, and southeast and; sand dunes/beach area between the marsh/wetlands area and the Pacific Ocean.

A less significant feature of the property is a heavily vegetated knoll located in the southeast corner of the property adjacent to Highway 101.

A delineation of the wetlands on the site was completed by Pacific Habitat Services. A map showing the location of the marsh/wetland areas is located in the maps in Exhibit 3. For the wetlands report and detailed mapping of the wetlands on the property, see Exhibit 5.

Surrounding Land Uses:

North – the property north of the subject property is Sahhali Shores at Neskowin subdivision consisting of approximately 90 residential lots. These lots are a mix of standard single family lots (20,000 sq ft minimum) and townhouse, zero lot line structures.

South – the property to the south is heavily vegetated with large areas of marsh/wetlands. The property is vacant.

East – to the east of the subject property is Highway 101. Generally, on the east side of Highway 101 are numerous larger parcels (+10 acres) with single family residences.

West – to the west of the subject property are sand dunes and the Pacific Ocean.

Topography: The topography of the subject property is depicted on the maps in Exhibit 3.

Zoning District and Minimum Lot Size: The property is within the Neskowin Community Growth Boundary and is zoned NeskRR-PD i.e. Rural Residential with a Planned Development overlay. The minimum lot size for an RR zone is 20,000 square feet. However, the PD overlay zone allows developments to have lots smaller than what is required in the underlying RR zone. Minimum lot size as proposed is 3,756 square feet. The net density complies with the RR zone requirements.

Sanitary Sewer: The subject property is outside of the Neskowin Regional Sanitary Authority boundaries.

Water Service: The subject property is inside of the Neskowin Regional Water District.

Other Utilities: The property is served by Tillamook Public Utility District, the electrical provider; Charter Communications, the cable provider and; Sprint, the telephone provider.

Fire Protection: Fire protection will be provided by Neskowin Rural Fire District.

Public Schools: Public schools are provided through the Cloverdale Elementary School and the Nestucca High School. The applicant anticipates that the majority of the residents will be second home owners and retirees minimizing impact on the local schools.

Streets: The subject property currently is served by one access driveway to Highway 101.

Geology: The majority of the development is located on ridges comprised of basalt bedrock. The complete Geologic Hazard Report is included herein as Attachment 6.

II - SCOPE AND INTENT OF THE LAND USE APPLICATIONS

The subject land use application seeks approval of a Preliminary Development Plan through a conditional use permit. This development is located within the Neskowin Community Growth Boundary and is known as Sahhali South. The overall proposed development consists of 56 lots (please refer to the lot layout maps in Exhibit 3) which include:

- 1) 46 zero-lot line townhouse lots, which are located on a ridge running generally northeast to southwest through the property. Each of the 46 townhouse lots will be constructed with one common, zero-lot line wall on one side. The PD approval process allows for the reduction in the side yard setback in order to allow for the zero-lot line development. Side yard setbacks proposed for the townhouse units are:
 - a. a minimum 10 foot side yard setback on one side of the lot, and
 - b. a zero-lot line side yard setback on the other side of the lot. Every two lots will have one attached building unit housing two dwelling units. These building units are designed to be similar to single family detached lots in size and density. One advantage to using these types of lots is to create a development that visually appears to be lower in density that it really is. There will be 23 attached building units, each of two dwelling units, on the 46 zero-lot line townhouse lots in Sahhali South. The attached townhouses will provide individuals a flexible choice of living arrangements.
- 2) Nine single-family detached lots. These lots are located on a knoll in the southeast portion of the property. One additional single-family detached lot Lot 48, located in the Northwest corner of the development is potentially dividable into two lots. The Master Development Plan, as proposed, allows for the future partitioning of Lot 48 into two future lots. The overall density in the subdivision will not be exceeded, even with the future partition of Lot 48. Conventional yard setbacks, as required by the RR zone, will apply to these lots.
- 3) One lot Lot 13 designated as possible future community center site.

The site has a total of 73 acres. Of this, almost 59.6 acres will be in dedicated Open Space. The subdivision area and density calculations are presented in Exhibit 2.3 herein. The Open Space will consist of the delineated wetlands, the marsh areas, the sand dunes as well as other undeveloped lands including all necessary setback areas from the natural areas. There is no planned improvement within these Open Space areas. There is an existing footpath that leads from the northeast corner of the property generally to the southwest, along the base of the ridge, then around the ridge to an existing pedestrian bridge west of the ridge. This bridge crosses the marsh area allowing access to the dunes and ocean. The existing path, which is paved for the first 600 feet, and the bridge will be maintained in the existing condition.

Sanitary Sewer: The development will be served by an on-site community septic system permitted by the Department of Environmental Quality. Each lot will have septic/pump tanks for solids storage. Untreated effluent will be pumped to the treatment facilities which will be located on the subject property.

The treatment facilities will take an area of less than 10,000 square feet in physical size. The treated effluent will then be pumped to drain fields located on **Tax Lot 800 Assessor's Map 5S 10 19B.**

The off-site drain field will consist of approximately 4,800 lineal feet of primary area and a back-up, replacement area sufficient in size for an additional 4,800 lineal feet. Soils testing in this area has been conducted by the project sanitarian, John Smits, and shows adequate soils that will easily handle the treated effluent. A map of the proposed off-site drain field area is enclosed in Exhibit 7.

Water Service: The subject property is within the boundaries of the Neskowin Regional Water District (NRWD) and will take service from the NRWD. The NRWD currently has a 8 inch PVC line along the Highway 101 frontage of the subject property. In addition, there is an 8 inch PVC line immediately north of the subject property's north property line.

A tee and capped valve will be provided in the Southerly portion of the proposed new water distribution loop for future use by the NRWD in a future main extension project to connect to existing water mains in Neskowin North area. The exact layout of water distribution facilities to serve the development will be worked out between the project civil engineer, Ron Larson of HLB, with NRWD staff and their engineering consultants.

Other utilities: All other utilities – Tillamook PUD, Sprint, Charter Communications – all have or are capable of extending facilities to serve the site. The exact location and size of the facilities will be worked out in consultation with the serving utility.

Streets: As stated, the subject property is currently served by an access driveway from Highway 101, which is located approximately 200 feet south of **the subject property's north property line.** The existing access is too near the intersection of Sahhali Drive with Highway 101, thereby creating a traffic hazard. Given the location of wetlands, the proposed lot layout on the development, and the topography of the site, it is not feasible to move the existing access to the south.

The existing access driveway will be used as an emergency access road only in the proposed development. Primary access to the development will be via the existing Sahhali Drive access street over Assessor's Map 5S 11 13 Tax Lot 405. This property is owned by the developer, Sycan B Corp. The Sahhali Shores at Neskowin Consolidated Homeowner's Association uses this street for preliminary access by grant of easement. The property owner will grant an irrevocable

easement over Sahhali Drive to the HOA of the new development, Sahhali South, for use as the primary access.

Currently, Highway 101 along the frontage of the subject property has one south bound lane and two north bound lanes — one travel and one passing. In consultation with the Oregon Department of Transportation, the traffic engineer for the project, Jim Hanks of JRH, has determined that the passing lane at this location does not meet ODOT standards for length. In addition, there are passing lanes to the north and the south which do meet ODOT standards. The passing lane at this location will be eliminated.

The asphalt pavement width "gained" by elimination of the passing lane will be used to create a dedicated left turn off Highway 101 to Sahhali Drive. The developer has been working with ODOT on resident's concerns of left turning from Highway 101 to Sahhali Drive. The creation of the left turn lane and the elimination of the passing lane in this area will create a highway cross section that meets ODOT standards for safety. The complete Traffic Impact Analysis (TIA) is included herein as Exhibit 4.

It is proposed that the eight single family lots located on the southeast knoll have direct access to Highway 101. This area of the subject property is isolated from the rest of the site by wetlands and topography. The traffic impact of that access road on Highway 101 is also addressed in Exhibit 4.

The internal streets serving the development will be private and constructed to meet or exceed Tillamook County Road standards. Care has been taken to minimize the amount of street serving the proposed lots. In order to prevent large expanses of unbroken asphalt, the cul-de-sac at the southerly terminus of the main street is proposed as a roundabout. The roundabout will give the ability to provide landscaping within the center of the roundabout. This treatment will break up large expanses of asphalt at the cul-de-sac.

III - APPLICABLE DECISION CRITERIA

The following have been determined to be all of the substantive criteria relevant to a consideration of the proposed land use applications:

Conditional Use Permit Criteria

Tillamook County Land Use Ordinance (LUO) 6.040 "Review Criteria".

"Any CONDITIONAL USE authorized according to this Article shall be subject to the following criteria, where applicable:

- (1) The use is listed as a CONDITIONAL USE in the underlying zone, or in an applicable overlying zone.
- (2) The use is consistent with the applicable goals and policies of the Comprehensive Plan
- (3) The parcel is suitable for the proposed use considering its size, shape, location, topography, existence of improvements and natural features.
- (4) The proposed use will not alter the character of the surrounding area in a manner which substantially limits, impairs, or prevents the use of surrounding properties for the permitted uses listed, in the underlying zone.
- (5) The proposed use will not have a detrimental effect on existing solar energy systems, wind energy conversion systems, or wind mills.
- (6) The proposed use is timely, considering the adequacy of public facilities and services existing or planned for the area affected by the use."

Planned Development Criteria

LUO 3.080(3)(b): "During its review the Planning Department shall distribute copies of the proposal to county agencies for study and comments. In considering the plan, the Planning Department shall seek to determine that:

- (1) There are special physical conditions or objectives of development which the proposal will satisfy to warrant a departure from the standard ordinance requirements.
- (2) Resulting development will not be inconsistent with the comprehensive plan provisions of zoning objectives of the area.
- (3) The plan can be completed within a reasonable period of time.
- (4) The streets are adequate to support the anticipated traffic and the development will not overload the streets outside the planned area.
- (5) Proposed utility and drainage facilities are adequate for the population densities and type of development proposed.
- (6) The parcel is suitable for the proposed use, considering its size, shape, location, topography, existence of improvements, and natural features.
- (7) The proposed use will not alter the character of the surrounding area in a manner which substantially limits, impairs or prevents the use of surrounding properties of the permitted uses listed in the underlying zone.
- (8) The proposed use is timely, considering the adequacy of public facilities and services existing or planned for the area affected by the use.
- (9) Proposed uses which are not otherwise permitted by the underlying zoning on the parcel are accessory uses within the entire development."

Rural Residential (RR) Zone: permitted uses allowed under the RR zone are as follows:

- a. Single-family residential structures.
- b. Recreational vehicles use during the construction or placement of a use for which a building or placement permit has been issued.
- c. Home occupations according to the provisions of Section 4.140 of this ordinance.
- d. Farm uses, including aquaculture.
- e. Forest uses.
- f. Roadside stands for produce grown on the premises.
- g. Signs, subject to Section 4.020.
- h. Electrical distribution lines.
- i. Conditional Uses (among others)

"Planned Developments subject to Section 3.080, or Mixed Use Developments subject to Section 4.130: The number of attached single family dwelling units in a cluster shall be established in the Planned Development approval process and may exceed four units per cluster if it is demonstrated that benefits in protection of conditions, better views, or access will be achieved by such clustering. This shall apply only to RR/PD zoned property located within a community growth boundary.

IV - SPECIFIC FINDINGS OF FACT: DISCUSSION; CONCLUSIONS

Conditional Use Permit

Criterion 1: "(1) The use is listed as conditional use in the underlying zone, or in an applicable overlying zone."

Discussion: Tillamook County LUO 3.010(3)(a) lists Planned Developments among the uses permitted conditionally in an RR zone. The proposed use is a Planned Development.

Conclusion: The proposed use, a Planned Development, is listed as a conditional use in the underlying RR zone and is required in the applicable PD overlay zone. The criterion of approval is met.

Criterion 2: "(2) The use is consistent with the applicable goals and policies of the comprehensive plan."

Discussion: Goal 5: Open Spaces/Scenic-Historic Areas/Natural Resources:

"To conserve open space and protect natural and scenic resources..."

This Planned Development is designed to take advantage of the site's natural beauty, with the goal of preserving sensitive landscape. Approximately 59.6 acres of the site – including the sand dunes, the major marsh areas, and those areas delineated as wetlands by Pacific Habitat Services – will be designated Open Space. No development will be allowed within these areas other than the existing pedestrian footpath and an existing wooden bridge. The steep slopes on the western side of the main ridge will not be developed.

Development will only occur in three areas of the property:

- 1. on the most northeasterly approximately 200 feet of the property,
- 2. along the gentle slopes of the northeast to southwest trending ridge, and
- 3. on the knoll in the southeast corner of the property.

The proposed development is consistent with the Comprehensive Plan goal of conserving open space and protecting natural and scenic resources.

Goal 6: Air, Water, and Land Resources Quality:

"To maintain and improve the quality of the state's air, water and land resources..."

The sewage system for the proposed development will meet or exceed all Department of Environmental Quality standards and will incorporate the latest technology in treatment of waste.

Storm drainage from streets will be collected in oil/water separator catch basins and then piped to a location on the site that will run through a sediment basin and then discharge into the wetlands and marsh areas. The storm water will be allowed to sheet over the native vegetation to remove any remaining particulates before the water enters the natural drainage system.

Goal 18: Beaches and Dunes:

"To provide a wide spectrum of uses while maintaining physical integrity of beaches and dunes..."

The dunes and beaches on the subject property will remain as they currently are. There is no development or improvement of the beaches and dunes planned or applied for. The existing pedestrian footpath and wooden bridge give access to the dunes and beach area of the development's residents.

Conclusion: The proposed development complies with, indeed furthers, all the applicable goals of the Comprehensive Plan. This criterion of approval is met.

Criterion 3: "(3) The parcel is suitable for the proposed use considering its size, shape, location, topography, existence of improvements, and natural features."

Discussion: In addition to the information discussed in Sections II and III of this document, Exhibit 3 provides maps which illustrate the size, shape, topography and natural features of the site. The parcel is approximately 73 acres. The subject property is well delineated among its prominent natural features – the sand dunes/ocean beach areas, the major marsh/wetland area, the gentle sloped ridge, and the knoll in the southeast corner. The overall density of the proposed development is 1.92 lots per net useable acre, which is less than the allowable density of the RR-PD zone. The subdivision area and density calculations are presented in Exhibit 2.3 herein.

The proposed development utilizes the upland ridge for house sites while respecting the marsh/wetland areas and the dunes/beach areas. The design of the proposed plan takes advantage of the topography by clustering the lots and developing the upland, gently sloping areas while leaving the natural features of the dunes, marsh areas, and wetlands undisturbed.

Conclusion: The planned development is intended to be in harmony with the existing natural features and topography of the site. The size of the development is adequate for the proposed use based upon the density. The shape of the parcel is of dimensions that make it adequate for the proposed use. The parcel is located in an area that has incomparable scenic views and close access from the highway. Finally, the parcel's topography will be protected from excess grading and no development will occur within the natural features of the site. The parcel is suitable for the proposed use considering its size, shape, location, topography, existence of improvements, and natural features. This criterion of approval is met.

Criterion 4: "(4) The proposed use will not alter the character of the surrounding area in a manner which substantially limits, impairs or prevents the use of surrounding properties for the permitted uses listed in the underlying zone;"

Discussion: As discussed in Section I of this document, the property is adjacent to Rural Residential/Planned Development zoned parcels to its north and south, to Recreation Management zoned property to its west and to Highway 101 on the east.

The overall density of the parcel is only 1.92 dwelling units per net useable acre. The development is naturally separated from the parcels to the south by the major marsh area; from the property to the west by the major marsh area and

the sand dunes; and from the properties to the east by Highway 101. In addition, the elevation of the ridge – the site of the most development – is separated by a considerably higher elevation than that of the dunes/beach areas and the major marsh/wetlands area.

The property adjacent to the north is the Sahhali Shores at Neskowin subdivisions. The proposed development is designed to replicate in feel and look this development. The proposed layout of the development will not impact the scenic views of the adjacent subdivisions.

Conclusion: The design takes into account the natural topography and features of the site while using those very features to separate the proposed development from surrounding uses. The proposed use will not alter the character of the surrounding area in any manner that substantially limits, impairs or prevents the use of surrounding properties for the permitted uses listed in the underlying zone.

Criterion 5: "(5) The proposed use will not have a detrimental effect on existing solar energy, wind energy conversion systems or wind mills;"

Discussion: There is one existing wind mill in the area, approximately ¾ mile to the northeast on the opposite side of Highway 101 from the proposed development. Otherwise none of the named systems are located in the area. It is inconceivable that the proposed development would impact the existing wind mill.

Conclusion: This criterion of approval is met.

Criterion 6: "(6) The proposed use is timely, considering the adequacy of public facilities and services existing or planned for the area affected by the use."

Discussion: As previously discussed, public facilities and services including sewer, water, electricity, telephone, cable, and fire protection are available and adequate to serve this proposed development. The applicant is working with ODOT to arrive at an improved and safer design of Highway 101 along the **proposed development's frontage.** For additional detailed information, see the Traffic Impact Analysis, prepared by JRH Engineering, enclosed as Exhibit 4.

Conclusion: If the proposed development is conditioned to include a requirement to incorporate ODOT's design criteria into the Highway 101 improvements, this criterion of approval can be met.

PLANNED DEVELOPMENT

Criterion 1: "(1) There are special physical conditions or objectives of development which the proposal will satisfy to warrant a departure from the standard ordinance requirements."

Discussion: The primary objective of the development is to protect the sensitive areas on the site – the dunes, the beach, the major marshes, and the wetlands – will allowing for the development of the long ridge that traverses the property. A secondary objective is to allow for a smaller lot size to insure that while density is met all lots have visual and physical access to those sensitive areas.

Conclusion: The Planned Development includes lots that are smaller than what is required in the underlying zone. Smaller lots are designed to lessen the impacts to the site as well as to the surrounding areas. The protection of the sensitive areas of the subject property warrants a departure from the standard ordinance requirements. The criterion of approval is met.

Criterion 2: "(2) Resulting development will not be inconsistent with the comprehensive plan provisions or zoning objectives of the area."

Discussion: It has already been demonstrated how this development is consistent with the comprehensive plan provisions through Criterion 2 of the Conditional Use Criteria. The following discussion applies to the zoning objectives of this area. Section 3.080 of the Tillamook Land Use Ordinance states the purpose of a Planned Development Overlay Zone:

"...the intent is to encourage development designs that preserve and/or take advantage of the natural features and amenities of a property such as, but not limited to, views, water frontage, wetlands, sloping topography, geologic features and drainage areas. A Planned Development should conform to the general objectives as presented by the comprehensive plan for the area and it should be compatible with the established and proposed surrounding land uses."

All of the elements addressed in this proposal have been discussed at length in this summary statement. The proposed Planned Development is intended to preserve and take advantage of all of the site amenities such as the view of the ocean, natural dune areas, sloping topography, marshes, and wetlands. The development will protect the sensitive areas on the site. The development will be compatible with surrounding areas by clustering building lots, as well as using the site's natural amenities as buffers. Natural features that this property will take advantage of are the beautiful surrounding areas, including the ocean and marshes. The lots are designed and situated in such a way to maximize views,

yet will require minimal grading. Drainage areas, such as the beach and dune and wetland areas will be preserved through the use of oil/water separators and detention basins. All of the natural areas located on the property including the dunes and wetlands will be protected by not allowing any development or land disruption in these areas.

Conclusion: The resulting development will not be inconsistent with the comprehensive plan provisions or zoning objectives of the area. This criterion of approval is met.

Criterion 3: "(3) The plan can be completed within a reasonable period of time."

Discussion: All of the proposed improvements – the local streets, the improvements to Highway 101, the extension of utilities, and the community sewerage system – are common improvements for subdivisions and require no specialized knowledge beyond what would normally be required of a licensed civil engineer and an experienced contractor. The construction of all subdivision improvements are planned for the summer of 2005.

Conclusion: This criterion of approval is met.

Criterion 4: "(4) The streets are adequate to support the anticipated traffic and the development will not overload the streets outside the planned area."

Discussion: The applicant has completed and submitted to Oregon Department of Transportation a Traffic Impact Analysis (TIA). See Exhibit 4. The TIA shows that the proposed entry on Sahhali Drive off of Highway 101 can be made adequate for the development by implementing a few changes. Specifically, the north bound passing lane on Highway 101 along the frontage of the subject property, which terminates almost at the entrance drive of Sahhali Drive, should be eliminated. This right of way can then be used to create a protected left turn refuge lane for traffic turning onto Sahhali Drive. The TIA shows, and ODOT concurs, that a right turn only lane from Highway 101 is not warranted. The existing travel lane and shoulder are sufficient for this movement.

The local streets, while private, will meet or exceed all Tillamook County Road Department standards. The proposed road section and street profiles are shown on the plans, Exhibit 3. The construction plans for the local streets will be submitted for Tillamook County review and approval.

Conclusion: By eliminating the north bound passing lane and installing the protected left turn refuge lane, the proposed development actually improves the traffic safety on Highway 101. These improvements, as approved by ODOT,

insure the functionality of streets outside the planned area. This criterion of approval is met.

Criterion 5: "(5) Proposed utility and drainage facilities are adequate for the population densities and type of development proposed."

Discussion: The proposed drainage plan for the development includes concrete curbs which will collect surface runoff and disperse the runoff into various catch basins located throughout the development. These catch basins will be constructed with oil/grease separators. Collected storm drainage will then be directed by a piped storm drainage system first to a sedimentation pond/basin and then the water will travel by sheet flow through vegetation before entering the wetlands.

Other utilities such as electric, water and cable are adequate as mentioned before for the densities and amount of lots proposed.

Conclusion: Based upon the information discussed previously, the proposed utility and drainage facilities are adequate for the population densities and type of development proposed. The criterion of approval is met.

Criterion 6: "(6) The parcel is suitable for the proposed use, considering its size, shape, location, topography, existence of improvements, and natural features."

Discussion and Conclusion: This criterion of approval is identical to Conditional Use Criterion 3. The same evidence, discussion and conclusions as stated previously apply. The criterion of approval is met.

Criterion 7: "(7) The proposed use will not alter the character of the surrounding area in a manner which substantially limits, impairs or prevents the use of surrounding properties for the permitted uses listed in the underlying zone."

Discussion and Conclusion: This criterion of approval is identical to Conditional Use Criterion 4. The same evidence, discussion and conclusions as stated previously apply. The criterion of approval is met.

Criterion 8: "(8) The proposed use is timely, considering the adequacy of public facilities and services existing or planned for the area affected by the use."

Discussion and Conclusion: This criterion of approval is identical to Conditional Use Criterion 6. The same evidence, discussion and conclusions as stated previously apply. The criterion of approval is met.

Criterion 9: "(9) Proposed uses which are not otherwise permitted by the underlying zoning on the parcel are accessory uses within the entire development."

Discussion: The Planned Development anticipates the following uses and improvements:

- Single family residential structures
- A possible future community center
- Electrical, telephone, and cable television utility lines located underground
- The existing pedestrian footpath and bridge

The Tillamook County Land Use Ordinance defines the term accessory as "...a land use that is incidental and subordinate to the established primary use of a piece of property and which is located on the same property as is the primary use..."

Conclusion: Based upon the definition above, the proposed single family dwellings are the primary uses permitted under the RR zoning. All other uses listed are concluded to be accessory because they are incidental and subordinate to the permitted dwellings. The criterion of approval is met.

LEGAL DESCRIPTION

PARCEL NO. 1:

All of Government Lot 28 in Section 13, Township 5 South, Range 11 West, and that portion of Government Lot 5, Township 5 South, Range 11 West, Tillamook County, Oregon, which lies North of the following described line:

Commencing at the one-quarter Section corner common to Sections 13 and 24, Township 5 South, Range 11 West of the Willamette Meridian, Tillamook County, Oregon, the said one-quarter Section corner being monumented by a Tillamook County Surveyor brass cap;

thence South 20° 02' 37" West 889.07 feet to a 5/8" iron bar with a plastic cap marked "A Duncan LS 793", which is denoted as Point A for purposes of this description, and is also the point of beginning of the following described line, to wit:

thence South 89° 59' 21" West 367.27 feet to a 5/8" iron bar with plastic cap marked "A Duncan LS 793":

thence continuing South 89° 59' 21" West 200 feet, more or less, to the West line of Government Lot 5 of said Section 24.

ALSO: Beginning at Point A;

thence North 89° 59' 21" East 286.78 feet, more or less, to the East line of said Government Lot 5.

PARCEL NO. 2:

That portion of the Northwest quarter of the Northwest quarter of Section 19, Township 5 South, Range 10 West, Willamette Meridian, Tillamook County, Oregon, lying West of Old U.S. Highway 101 (now known as Aeolian Way).

ALSO: Government Lots 1, 2, 3, and 4, lying West of Old U.S. Highway 101 (now known as Aeolian Way) in Section 24, Township 5 South, Range 11 West of the Willamette Meridian, less tract conveyed to W. Clayton McMinimee and Elizabeth McMinimee by Deed dated July 1, 1971 ad recorded in Book 235, page 613, Tillamook County Records, and less tract condemned by State of Oregon, Case No. 19-301, Circuit Court, Tillamook County, Oregon, Judgment Order entered January 21, 1982.

Page 7 Report No. 29-69502

EXHIBIT "A" Page ____ of ___

LEGAL DESCRIPTION

Map 5S 11 13 Tax Lot 405

Government Lots 31 and 32, in Section 13, Township 5 South, Range 11 West of the Willamette Meridian, in Tillamook County, Oregon, lying West of the East line of relocated Highway 101.

EXCEPTING THEREFROM that portion conveyed to the State of Oregon, by and through its Department of Transportation, Highway Division, by instrument recorded June 6, 1979, in Book 263, Page 329, Tillamook County Records; and also by instrument recorded March 15, 1982, in Book 280, Page 754, Tillamook County Records.

EXHIBIT 'A'

Legal Description:

Beginning at a 34" iron pipe which is South 180.27 feet and West 1836.83 feet from the Northeast corner of Section 24, Township 5 South, Range 11 West of the Willamette Meridian, in Tillamook County, Oregon;

Thence South 14° 48' West 123.33 feet; Thence North 75° 12' West 4 feet;

Thence South 14° 48' West 86.40 feet;

Thence North 75° 12' West 128,66 feet to a point;

Thence continuing North 75° 12' West 17.34 feet;

Thence North 14° 48' East 209.73 feet;

Thence South 75° 12' East 60.41 feet to a 34" iron pipe;

Thence continuing South 75° 12' East 89.59 feet to the point of beginning.

Bearings used in the above description are derived from the South boundary of Neskowin North subdivision, which bears West,

RESERVING unto Grantors, their heirs, personal representatives, successors and assigns the right to use in common with Grantees, their heirs, personal representatives, successors and assigns the right to use in common the Northerly 40 feet of said tract for an underground sewer drainage area for a single family dwelling.

NOTE: The forthcoming conveyance should contain the following recital: The right in common with others to the use of the existing road presently running to and from said parcel to the U.S. Highway 101, and of any hereafter constructed road running to and from said aforesaid property to the Pacific Ocean.

Subject to:

Taxes for the fiscal year 2003/04, a lien in an amount to be determined, but not yet payable.

The premises herein described lie within and are subject to the statutory powers, including the power of assessment of Neskowin Water Agency,

Notwithstanding Paragraph 4 of the insuring clause of the policy, the policy does not insure against loss arising by reason of any lack of a right of access to and from the land.

Easement, including the terms and provisions thereof,

From:

Warren A. McMinimee and Louise B. McMinimee

To: Recorded: Tillamook People's Utility District

November 6, 1970

Book.

221 Page: 365

Records of Tillamook County, Oregon.

covers other property also

Amendment recorded April 27, 1971 in Book 222, page 912, Tillamook County Records.

From:

Easement as reserved in Warranty Deed, including the terms and provisions thereof, Warren A. McMinimee and Louise B. McMinimee

To:

W. Clayton McMinimee and Elizabeth McMinimee

Recorded:

March 14, 1974

Book:

235 Page: 613

Records of Tillamook County, Oregon.

Correction recorded June 18, 1974 in Book 236, page 783, Tillamook County Records.

Title No. 29-68121

Escrow No. 29-68121

Easement as granted in Warranty Deed, including the terms and provisions thereof.

From: To:

Warren A. McMinimee and Louise B. McMinimee W. Clayton McMinimee and Elizabeth McMinimee

Recorded:

March 14, 1974

Book:

235 Page: 613

Records of Tillamook County, Oregon.

Correction recorded June 18, 1974 in Book 236, page 783, Tillamook County Records.

Agreement, including the terms and provisions thereof,

Contained in:

Document

Between:

Neskowin Water Co., Inc./Neskowin Enterprises, Inc.

And: Dated: Arthur Baltzor, et al January 22, 1974 May 20, 1974

Recorded: Book:

236 Page: 432

Records of Tillamook County, Oregon.

Agreement, including the terms and provisions thereof,

Contained in:

Document

Between:

Neskowin Enterprises, Inc.

And:

James A. Kats, et al. December 18, 1969

Dated: Recorded:

Book.

June 5, 1974 236 Page: 606

Records of Tillamook County, Oregon.

Amendment to Agreement, including the terms and provisions thereof, between Neskowin Water Co., Inc., Neskowin Enterprises, Inc., and Neskowin North, Inc., et al dated January 22, 1974, recorded May 20, 1974 in Book 236, page 432, Tillamook County Records.

Easement as granted in document, including the terms and provisions thereof,

From:

Warren A. McMinimee

To:

Neskowin North, Inc.

Recorded:

March 2, 1979

Book:

Page: 709 261

Records of Tillamook County, Oregon.

Road Maintenance Agreement, including the terms and provisions thereof,

Contained in:

Easement

Between:

Warren A. McMinimee

And: Recorded: Neskowin North, Inc.

March 2, 1979

Book:

261 Page: 709

Records of Tillamook County, Oregon.

Agreement, including the terms and provisions thereof,

Contained in:

Document

Between:

Corolyn M. Merchant and Janet M. Foster

And:

Janet M. Foster, as Personal Representative of the Estate of

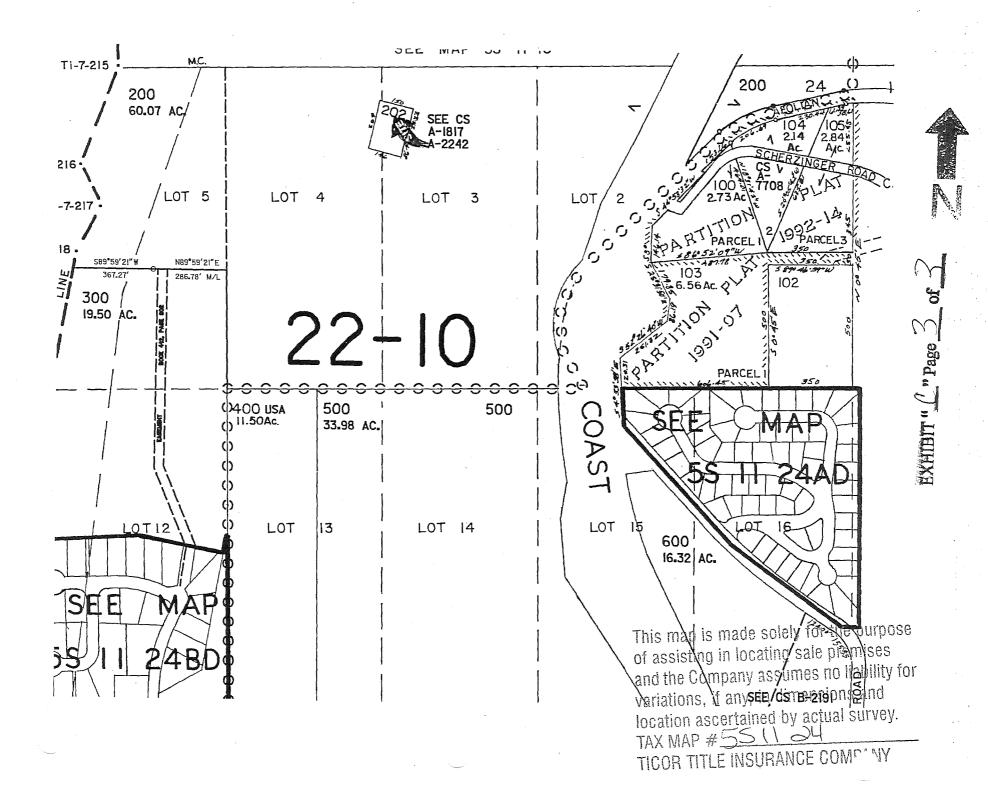
Elizabeth McMinimee

Recorded:

July 15, 2003 2003422921

Instrument No.:

Records of Tillamook County, Oregon.





p.o. box 219 • 160 laneda avenue • manzanita, oregon 97130 (503) 368-5394 • fax (503) 368-5847 www.hlb-otak.com

February 15, 2007

LEGAL DESCRIPTION for SAHHALI SOUTH LLC for BEACH ACCESS TRAIL EASEMENTS

TRAIL EASEMENT #1:

A 10 foot wide strip of land for the purpose of Beach Access Trail Easement over a portion of that tract of land described in Instrument #2004-010802, Tillamook County Deed Records, situated in Section 24, Township 5 South, Range 11 West of the Willamette Meridian, Tillamook County, Oregon, said strip being 5 feet each side of the following described centerline:

COMMENCING at the east one-sixteenth corner on the north line of said Section 24, said point being marked by a 5/8" iron rod;

thence South 88°44'45" East 463.03 feet along the North line of said Section 24 to the beginning of a tangent 50.00 foot radius curve to the right;

thence on said curve through a central angle of 153°35'41" (the long chord bears South 11°56'55" East 97.36 feet) an arc distance of 134.04 feet to **POINT OF BEGINNING #1**, which point is located on the south right-of-way line of the cul-de-sac of Heron View Drive, **SAHHALI SOUTH** subdivision;

thence South 25°04'34" West 198.34 feet;

thence South 43°37'18" West 37.57 feet;

thence South 29°24'46" West 286.94 feet;

thence South 37°57'36" West 29.21 feet;

thence South 46°49'40" West 27.64 feet;

thence South 60°30'31" West 95.91 feet;

thence South 65°16'41" West 74.63 feet;

thence South 53°19'26" West 122.93 feet;

thence South 80°47'23" West 101.24 feet;

thence South 70°15'05" West 91.28 feet;

thence South 81°00'54" West 233.97 feet;

thence South 48°11'33" West 142.63 feet:

thence South 38°07'42" West 94.77 feet;

thence South 54°12'10" West 152.44 feet;

thence South 69°41'15" West 72.25 feet;

thence North 88°15'19" West 19.27 feet to Point 'A';

thence North 61°09'31" West 78.41 feet;

thence North 35°10'28" West 165.57 feet;

thence North 24°05'35" West 34.10 feet;

thence North 17°23'21" West 74.81 feet to the East end of a Foot Bridge;

thence North 12°48'33" West 16.20 feet along said Foot Bridge;

thence North 37°55'39" West 11.09 feet along said Foot Bridge;

thence North 64°15'36" West 159.13 feet along said Foot Bridge to the end thereof;

thence North 55°32'18" West 142.87 feet;

thence North 68°44'21" West 38.53 feet;

thence South 77°01'05" West 41.09 feet;

thence South 49°25'39" West 28.36 feet;

thence South 59°54'42" West 59.32 feet;

thence South 70°02'08" West 72.08 feet;

thence South 89°12'11" West 280.11 feet;

thence North 81°52'41" West 120.73 feet to the Ocean Shores Boundary.

TRAIL EASEMENT #2:

A 10 foot wide strip of land for the purpose of Beach Access Trail Easement over a portion of that

Exhibit D"Pg. Zof 5 Page 2 of 4

tract of land described in Instrument #2004-010802, Tillamook County Deed Records, situated in Section 24, Township 5 South, Range 11 West of the Willamette Meridian, Tillamook County, Oregon, said strip being 5 feet each side of the following described centerline:

COMMENCING at the east one-sixteenth corner on the north line of said Section 24, said point being marked by a 5/8" iron rod;

thence North 88°44'45" West 261.46 feet on the North line of said Section 24;

thence South 09°27'38" East 86.66 feet to the beginning of a tangent 125.00 foot radius curve to the right;

thence on said curve through a central angle of 39°33'56" (the long chord bears South 10°19'20" West 84.61 feet) an arc distance of 86.32 feet;

thence South 30°06'18" West 119.85 feet to the beginning of a tangent 125.00 foot radius curve to the right;

thence on said curve through a central angle of 34°56'33" (the long chord bears South 47°34'35" West 75.06 feet) an arc distance of 76.23 feet to the end thereof;

thence South 65°02'51" West 101.54 feet to the beginning of a tangent 275.00 foot radius curve to the left;

thence on said curve through a central angle of 29°07'38" (the long chord bears South 50°29'02" West 138.30 feet) an arc distance of 139.80 feet;

thence South 35°55'13" West 211.23 feet to the beginning of a tangent 125.00 foot radius curve to the right;

thence on said curve through a central angle of 11°58'55" (the long chord bears South 41°54'41" West 26.09 feet) an arc distance of 26.14 feet;

thence South 47°54'08" West 73.00 feet to the beginning of a tangent 50.00 foot radius curve to the left:

thence on said curve through a central angle of 91°45'08" (the long chord bears South 02°01'34" West 71.78 feet) an arc distance of 80.07 feet to the beginning of a tangent 55.00 foot radius reverse curve to the right;

thence on said curve through a central angle of 89°20'50" (the long chord bears South 00°49'27" West 77.34 feet) an arc distance of 85.77 feet, said point also being **POINT OF BEGINNING** #2, which point is located on the southeasterly right-of-way line of the cul-de-sac of Proposal Point Drive, **SAHHALI SOUTH** subdivision.

thence South 23°20'33" East 28.41 feet;

Exhibit D' B. 3 of 5 Page 3 of 4

thence South 14°59'59" East 25.70 feet; thence South 20°30'45" West 128.49 feet; thence South 15°18'00" West 82.01 feet; thence South 50°34'54" West 46.69 feet to **POINT 'A'**.

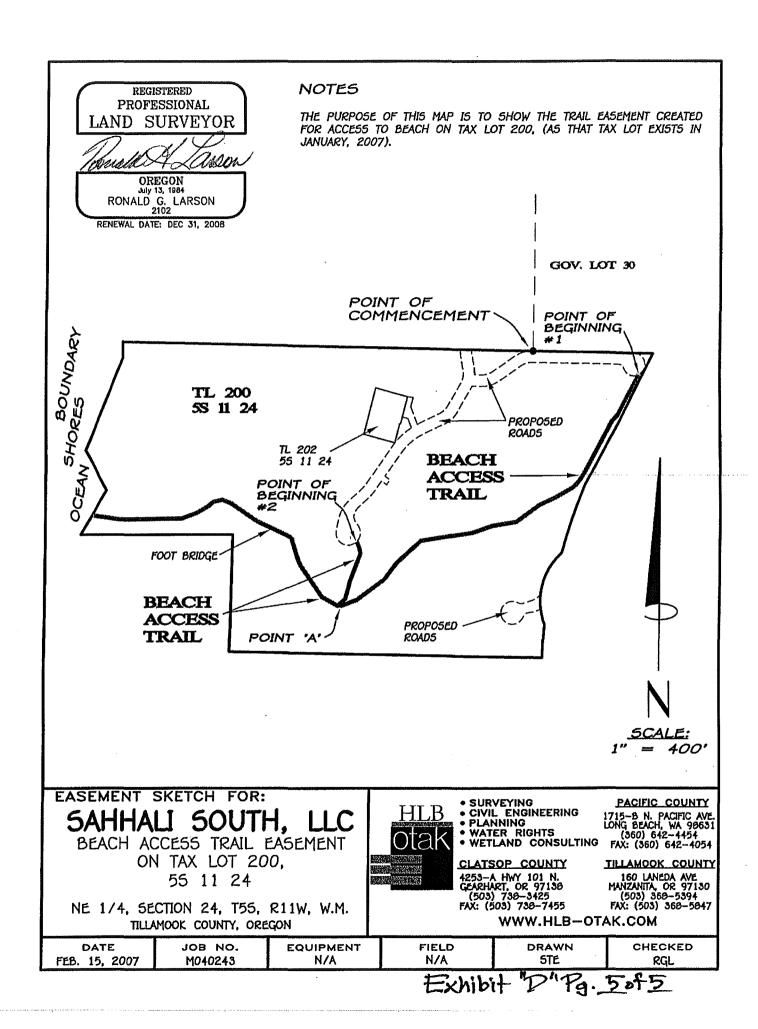
> PROFESSIONAL LAND SURVEYOR

> > OREGON JULY 13, 1984 2102

Renewal 12/31/08

<M:\Legals\2006\Sah So Trail Easment.doc>

Exhibit 17 79.4 of 5 Page 4 of 4



BEFORE THE PLANNING COMMISSION OF TILLAMOOK COUNTY, OREGON

IN THE MATTER OF THE SAHHALI SOUTH)	FINDINGS OF FACT,
MASTER PLAN AND TENTATIVE SUBDIVISION)	CONCLUSIONS, AND
PLAT. THE PARCELS ARE DESIGNATED AS TAX)	ORDER
LOT 200 OF SECTION 24, TOWNSHIP 5 SOUTH,		NUMBER PC 05-13
RANGE 11 WEST OF THE WILLAMETTE MERIDIAN)	
AND DESIGNATED AS TAX LOT 600 OF SECTION)	
13, TOWNSHIP 5 SOUTH, RANGE 11 WEST OF THE)	
WILLAMETTE MERIDIAN, TILLAMOOK COUNTY,)	
OREGON, AND THE AREA FOR A COMMUNITY)	
SEWAGE DISPOSAL SYSTEM IS ON TAX LOT 800)	
OF SECTION 19B TOWNSHIP 5 SOUTH, RANGE 10)	ı
WEST OF THE WILLAMETTE MERIDIAN		
TILLAMOOK COUNTY, OREGON.)	

APPLICANT: Sycan B Corporation, Tim Hovet, 840 Beltline, Suite 202, Springfield, OR 97477

The above-named applicant applied to Tillamook County requesting the Planning Commission to review a Conditional Use Permit to amend a Master Plan and Tentative Subdivision Plat for Sahhali South. The above-entitled matter was held before the Tillamook County Planning Commission on May 26, 2005 and July 28, 2005; and a decision was made on July 28, 2005.

The Tillamook County Planning Commission hereby orders that the applications for Sahhali South Master Plan and Tentative Subdivision Plat, is APPROVED, and adopts staff's findings of fact, as corrected during hearing, the conclusions contained within the staff report, written testimony received, and oral testimony received at the hearing and adopts the Conditions of Approval as modified, Exhibit A. The effective date of this Order is twelve (12) days following the signing of this order.

This decision may be appealed to the Board of County Commissioners, by an affected party by filing an application for an appeal, submitting written justification supporting the appeal, and submitting the required filing fees with the Tillamook County Board of Commissioners within twelve (12) days of this date.

DATED this August 3, 2005

TILLAMOOK COUNTY PLANNING COMMISSION

Kurt Heckeroth, Chairperson

ADOPTED CONDITIONS OF APPROVAL FOR GEOLOGIC HAZARD REPORT, GH-05-11:

This approval is valid for two years from the date of this Staff Report. This approval does not apply to Tax Lot 600 of Section 13, Township 5 South, Range 11 West of the Willamette Meridian and Tax Lot 800 of Section 19B, Township 5 South, Range 10 West of the Willamette Meridian Tillamook County, Oregon.

All development on this parcel shall meet the following conditions:

- 1. By accepting this approval the property owner agrees to indemnify, defend, save and hold harmless Tillamook County, and its officers, agents, and employees from any claim, suit, action or activity undertaken under this approval, including construction under a Building Permit approved subject to this approval.
- 2. The property owner shall obtain all other local, state, and federal permits prior to the start of development. Development within the wetlands may require permits from both the Department of State Lands and the US Army Corps of Engineers. Development within the riparian setbacks for any perennial waterway shall require a Development Permit from the Tillamook County Department of Community Development.
- 3. The property owner shall submit a statement or geologic hazard report addendum from the project engineer, confirming the proposed development plans meet the mandatory development requirements of the geologic hazard report, to this department prior to receiving final plat approval.
- 4. The property owner shall ensure that all of the development standards of Section 4.070 (2) (attached) shall be incorporated into any development activity on the subject parcel and all recommendations and mandatory requirements contained within the geologic hazard report shall be incorporated into any development activity on the parcel and shown on submitted building plans.
- 5. The property owner shall adhere to the requirements of the Section 3.320, Neskowin Rural Residential Zone (NeskRR) and Section 3.080, Planned Development Overlay Zone (PD).
- 6. The property owner shall submit site specific Geologic Hazard Reports for all lots with slopes greater than 19 percent present anywhere on the property; however, all oceanfront parcels shall require a site-specific geologic hazard report. These reports shall be obtained prior to the application for a building permit. The reports shall also address the location of driveways.
- 7. The property owner shall setback all development a minimum of 50 feet from the edge of the escarpment in "Area A" and shown on Exhibit C unless adequate justification can be provided for a lesser setback.

- 8. The property owner shall revegetate all disturbed areas immediately following completion of any approved site development. All bare slopes shall be promptly revegetated to avoid erosion. An appropriate fertilizer shall be used to speed the establishment of the cover material. A jute matting, straw cover, or other stabilization product shall be placed over the soil to protect against erosion, before the seeds are allowed to germinate. Native shrubs and trees, such as salal, Sitka spruce, elderberry, etc., shall be planted to contribute to the long-term stability of the site. All plantings shall be done during the growing season (February 15 April 1). Vigorous plant growth and mulching shall occur on all exposed soils, especially slopes.
- 9. The property owner shall adhere to the land grading requirements as described in Section C of the Engineering Geologic Hazard Report dated February 9, 2005.
- 10. The property owner shall adhere to the road development standards and requirements in Section B of the Engineering Geologic Hazard Report dated February 9, 2005.
- 11. Prior to the development of this parcel, the property owner shall submit a stormwater and drainage plan to this department, which shows the methods to be used to contain, control and redirect all stormwater runoff to appropriate drainage ways. Such appropriate methods shall be verified by the Public Works Department and shall be employed during construction and post construction. Such a plan is necessary to obtain a Building Permit approval. Temporary measures shall be taken to control storm water runoff and erosion of soils, and shall be shown on construction plans for any approved development. Recommendations for stormwater management (pre-, during, and post-construction) in Section G of the Engineering Geologic Hazard Report dated February 9, 2005 shall be included in any plans.
- 12. The property owner shall periodically monitor site conditions and take actions to ensure the recommended development standards are implemented and that these Conditions of Approval are met. The property owner shall supply the general contractor or builder with a copy of the Geologic Hazards Report and Final Geologic Investigation as well as these Conditions of Approval and instruct that person to adhere to these Conditions of Approval.

CONDITIONS OF APPROVAL FOR TENTATIVE PLAT:

- A. Section 25 REVIEW OF TENTATIVE PLAT limits this approval to 24 months, unless an extension pursuant to Section 30 of the Land Division Ordinance is approved. Extension requests must be received by the Department at least 60 days prior to expiration of this approval.
- **B.** The applicant/owner shall obtain necessary permits and authorizations from Tillamook County Public Works, and shall comply with any requirements of that agency.
- C. The applicant/owner shall conform to all Federal, State, and County regulations, and shall obtain all required permits prior to construction and/or development.
- **D.** All taxes owed shall be paid in full.

- E. The applicant/owner shall develop a Storm Water Control Plan including water quality monitoring and system failure provisions which will assure that storm water will not degrade the water quality of surface waters as described in the Statewide Water Quality Management Plan (OAR Section 340, Chapter 41). That plan shall include testing in the wetlands on a scheduled basis. Improvement plans shall include a design for stormwater disbursement so that erosion does not occur and to ensure that stormwater does not create a potential hazard for proposed or existing lots.
- F. All areas designated as open space, common area, wetlands, or the areas designated for development shall not be further subdivided for development purposes; however Lot 13 may be further partitioned into two separate lots at a future date subject to amendment of this Master Plan.
- G. The applicant/owner shall develop the community sewer system to the number of lots approved as part of this plat. All lots shall have an available guaranteed connection, and is required prior to final plat approval.
- H. The wording submitted by the Oregon Department of Fish and Wildlife in their May 17, 2005 letter shall be included in the covenants for all lots created. Exhibit D.
- I. The applicant shall meet all Conditions of Approval of Geologic Hazard Report GH 05-11 submitted in support of this application.
- J. Lots 28-39, 48A & 48B and 51-52 shall be ocean front lots with a maximum building height not to exceed 24 feet.
- **K.** The applicant/owner shall comply with the June 13, 2005 letter from the Nestucca Rural Fire Protection District.

EXHIBIT A

Conditional Use Permit, CU-05-03: Conditions of Approval.

Sections 6.070: COMPLIANCE WITH CONDITIONS, AND 6.080: TIME LIMIT require compliance with approved plans and conditions of this decision, and all other ordinance provisions, and allows 24 months for compliance with conditions and start of construction. Failure to comply with the conditions of approval and ordinance provisions could result in nullification of this approval.

- 1. The applicant/owner shall obtain all Federal, State, and Local permits, as applicable, prior to construction/development.
- 2. The applicant/owner shall meet all of the requirements of the letter from the Tillamook County Public Works Department.
- 3. This approval shall be void two years, (24 months), from the date of the Order from the Planning Commission, unless all of the conditions are met, or an extension is requested from, and approved by, this department before expiration.
- 4. The applicant/owner shall meet all requirements of the Neskowin Rural Residential (Nesk RR) zone.
- 5. The applicant/owner shall meet all requirements for sanitation, water, and access.
- 6. The applicant/owner shall maintain a minimum of 50 feet from the embankment for lots 38-39, 40 feet for lots 36-37 and 30 feet for lots 34-35, to preserve the view of the existing residence on 5S11 24 TL 202, where site specific Geologic Hazard reports support a lesser setback from 50 feet as described in GH-05-11. The more restrictive setbacks shall apply.
- 7. Failure to comply with these conditions may result in nullification of this Conditional Use approval.
- 8. The applicant shall submit site specific Geologic Hazard Reports as required.
- 9. Lots 28-39, 48A & 48B and 51-52 shall be ocean front lots with a maximum building height not to exceed 24 feet
- 10. All areas designated as open space, common area or wetlands shall not be further subdivided for development purposes.

<u>ADOPTED CONDITIONS OF APPROVAL FOR GEOLOGIC HAZARD REPORT, GH-05-11:</u>

This approval is valid for two years from the date of this Staff Report. This approval does not apply to Tax Lot 600 of Section 13, Township 5 South, Range 11 West of the Willamette Meridian and Tax Lot 800 of Section 19B, Township 5 South, Range 10 West of the Willamette Meridian Tillamook County, Oregon.

All development on this parcel shall meet the following conditions:

- 1. By accepting this approval the property owner agrees to indemnify, defend, save and hold harmless Tillamook County, and its officers, agents, and employees from any claim, suit, action or activity undertaken under this approval, including construction under a Building Permit approved subject to this approval.
- 2. The property owner shall obtain all other local, state, and federal permits prior to the start of development. Development within the wetlands may require permits from both the Department of State Lands and the US Army Corps of Engineers. Development within the riparian setbacks for any perennial waterway shall require a Development Permit from the Tillamook County Department of Community Development.
- 3. The property owner shall submit a statement or geologic hazard report addendum from the project engineer, confirming the proposed development plans meet the mandatory development requirements of the geologic hazard report, to this department prior to receiving final plat approval.
- 4. The property owner shall ensure that all of the development standards of Section 4.070 (2) (attached) shall be incorporated into any development activity on the subject parcel and all recommendations and mandatory requirements contained within the geologic hazard report shall be incorporated into any development activity on the parcel and shown on submitted building plans.
- 5. The property owner shall adhere to the requirements of the Section 3.320, Neskowin Rural Residential Zone (NeskRR) and Section 3.080, Planned Development Overlay Zone (PD).
- 6. The property owner shall submit site specific Geologic Hazard Reports for all lots with slopes greater than 19 percent present anywhere on the property; however, all oceanfront parcels shall require a site-specific geologic hazard report. These reports shall be obtained prior to the application for a building permit. The reports shall also address the location of driveways.
- 7. The property owner shall setback all development a minimum of 50 feet from the edge of the escarpment in "Area A" and shown on Exhibit C unless adequate justification can be provided for a lesser setback.
- 8. The property owner shall revegetate all disturbed areas immediately following completion of any

- E. The applicant/owner shall develop a Storm Water Control Plan including water quality monitoring and system failure provisions which will assure that storm water will not degrade the water quality of surface waters as described in the Statewide Water Quality Management Plan (OAR Section 340, Chapter 41). That plan shall include testing in the wetlands on a scheduled basis. Improvement plans shall include a design for stormwater disbursement so that erosion does not occur and to ensure that stormwater does not create a potential hazard for proposed or existing lots.
- F. All areas designated as open space, common area, wetlands, or the areas designated for development shall not be further subdivided for development purposes; however Lot 13 may be further partitioned into two separate lots at a future date subject to amendment of this Master Plan.
- G. The applicant/owner shall develop the community sewer system to the number of lots approved as part of this plat. All lots shall have an available guaranteed connection, and is required prior to final plat approval.
- H. The wording submitted by the Oregon Department of Fish and Wildlife in their May 17, 2005 letter shall be included in the covenants for all lots created. Exhibit D.
- I. The applicant shall meet all Conditions of Approval of Geologic Hazard Report GH 05-11 submitted in support of this application.
- J. Lots 28-39, 48A & 48B and 51-52 shall be ocean front lots with a maximum building height not to exceed 24 feet.
- **K.** The applicant/owner shall comply with the June 13, 2005 letter from the Nestucca Rural Fire Protection District.

NOTICE TO MORTGAGEE, LIENHOLDER, VENDOR OR SELLER: ORS 215 REQUIRES THAT IF YOU RECEIVE THIS NOTICE, IT MUST PROMPTLY BE FORWARDED TO THE PURCHASER.

If you have any questions about this decision, please call this department any weekday at (503) 842-3408.

Sincerely,

Tillamook County Department of Community Development

Bill Campbell

Director

BEFORE THE PLANNING COMMISSION OF TILLAMOOK COUNTY, OREGON

IN THE MATTER OF A CONDITIONAL USE REQUEST TO AMEND THE PLANNED DEVELOPMENT MASTER PLAN APPROVED AS CU-05-13 FOR THE PURPOSE OF PARTITIONING TWO LARGE LOTS, 13 AND 48, FOR RESIDENTIAL USE AS TOWNHOME OR SINGLE FAMILY DWELLING LOTS. THE PARCELS ARE DESIGNATED AS TAX LOTS 1300 AND 4800 OF SECTION 24AB, TOWNSHIP 5 SOUTH, RANGE 11 WEST OF THE WILLAMETTE MERIDIAN, TILLAMOOK COUNTY, OREGON.)	FINDINGS OF FACT, CONCLUSIONS, AND ORDER NUMBER PC 07-13
---	---	---

APPLICANT: Sycan Development by and through Whitney Landes, 840 Beltline Road, Suite 202, Springfield, Oregon 97477

PROPERTY OWNER: Sahhali South, LLC., 840 Beltline Road, Suite 202, Springfield, Oregon 97477

The above-named applicant applied to Tillamook County requesting the Planning Commission to review a Conditional Use Permit to amend the Master Plan for Sahhali South. The above-entitled matter was held before the Tillamook County Planning Commission on September 27, 2007, October 11, 2007, November 15, 2007 and December 13, 2007; and a final decision was made on December 13, 2007.

The Tillamook County Planning Commission hereby orders that the request, is APPROVED, and adopts staff's findings of fact, the conclusions contained within the staff report, written testimony received, and oral testimony received at the hearing and adopts the Conditions of Approval as modified, Exhibit A. The effective date of this Order is twelve (12) days following the signing of this order.

This decision may be appealed to the Board of County Commissioners, by an affected party by filing an application for an appeal, submitting written justification supporting the appeal, and submitting the required filing fees with the Tillamook County Board of Commissioners within twelve (12) days of this date.

DATED this 18th day of December, 2007

TILLAMOOK COUNTY PLANNING COMMISSION

Kurt Heckeroth, Chairperson

EXHIBIT A CU-07-14

Planning Commission Decision 12-13-07 PC-07-13

V. ADOPTED CONDITIONS OF APPROVAL FOR CONDITIONAL USE:

Sections 6.070: COMPLIANCE WITH CONDITIONS, AND 6.080: TIME LIMIT require compliance with approved plans and conditions of this decision, and all other ordinance provisions, and allow 24 months for compliance with conditions and start of construction. Failure to comply with the conditions of approval and ordinance provisions could result in nullification of this approval.

- 1. The applicant/owner shall obtain all Federal, State, and Local permits, as applicable, prior to construction/development.
- 2. The applicant/owner shall partition Lots 13 and 48 subject to the Tillamook County Land Division Ordinance.
- 3. This approval shall be void two years, (24 months), from the date of the Order from the Planning Commission, unless all of the conditions are met, or an extension is requested from, and approved by, this department before expiration.
- The applicant/owner shall adhere to the requirements of the Section 3.320, Neskowin Rural Residential Zone (NeskRR) and Section 3.080, Planned Development Overlay Zone (PD).
- 5. The applicant/owner shall meet all requirements for sanitation, water, and access.
- 6. Lot 48 shall be considered an oceanfront lot and subject to a 24' height limitation.
- All areas designated as open space, common area, wetlands, or the areas designated for development shall not be further subdivided for development purposes.
- 8. The applicant/owner shall construct a turnaround at the end of Vanora Lane to the proposed partition lots for Lot 48. This turnaround will be developed and approved during the Major Partition process.
- 9. The development of the proposed partitions for Lots 13 and 48 shall be limited to the following: townhomes are approved for Lot 13 as partitioned into 2 lots and a single family detached dwelling is approved for each of the two proposed partition lots from Lot 48.
- The Conditions of Approval in GH-07-35 shall be incorporated into these Conditions of Approval. This approval is valid for two years from the date of this

Staff Report. This approval shall apply to both site development including the roadway and the construction of homes on the proposed lots.

For All Lots

- 11. By accepting this approval the property owner agrees to indemnify, defend, save and hold harmless Tillamook County, and its officers, agents, and employees from any claim, suit, action or activity undertaken under this approval, including construction under a Building Permit approved subject to this approval.
- 12. The property owner shall obtain all other local, state, and federal permits prior to the start of development. Development within the wetlands may require permits from both the Department of State Lands and the US Army Corps of Engineers. Development within the riparian setbacks for any perennial waterway shall require a Development Permit from the Tillamook County Department of Community Development.
- 13. The property owner shall submit a statement or Geologic Hazard Report addendum from the project engineer, confirming the proposed development plans meet the mandatory development requirements of the Geologic Hazard Report and Conditions of Approval, to this department prior to Building Permit approval. Building permits will not be issued until evidence is submitted showing that all proposed development plans, including accessory structures, meet all requirements of the Geologic Hazard Report including requirements for clearing, grading, soil erosion control, drainage, and construction of building footings and foundations. This statement or addendum shall also be submitted confirming that the mandatory development requirements have been met prior to the Final Plat approval.
- 14. The property owner shall ensure that all of the development standards of Section 4.070 (2) (attached) shall be incorporated into any development activity on the subject parcel and all recommendations and mandatory requirements contained within the Geologic Hazard Report shall be incorporated into any development activity on the parcel and shown on submitted building plans.
- 15. The property owner shall revegetate all disturbed areas immediately following completion of any approved site development by mulching with straw and seeding with grass. All bare slopes shall be promptly revegetated to avoid erosion. An appropriate fertilizer shall be used to speed the establishment of the cover material. A jute matting, straw cover, or other stabilization product shall be placed over the soil to protect against erosion, before the seeds are allowed to germinate. Native shrubs and trees, such as salal, Sitka spruce, elderberry, etc., shall be planted to contribute to the long-term stability of the site. All plantings shall be done during the growing season (February 15 April 1). Vigorous plant growth and mulching shall occur on all exposed soils, especially slopes. The Revegetation Plan shall be shown on the submitted Building Permit plans.

- 16. The property owner shall periodically monitor site conditions and take actions to ensure the recommended development standards are implemented and that these Conditions of Approval are met. The property owner shall supply the general contractor or builder with a copy of the submitted materials as well as these Conditions of Approval and instruct that person to adhere to these Conditions of Approval.
- 17. A site specific topographic survey shall be obtained to develop lot-specific development site plans for each lot.
- 18. The property owner shall not grade the site beyond that necessary for construction to take place.
- 19. The property owner shall clearly flag the boundaries of the clearing limits prior to the start of any land clearing.
- 20. The property owner shall not remove any vegetation beyond the clearing limit line. The clearing limit line shall be the building envelope plus 15-feet extending around its perimeter for equipment usage as well as the easement width for the access road and driveways.
- 21. The property owner shall hold a pre-construction on-site meeting with the appropriate individuals (at a minimum, the project engineer and the general contractor), prior to commencement of development on each lot, including the Tillamook County Department of Community Development who will be given a written notice 5 working days prior to the meeting. In this instance pre-construction is defined as prior to any development (land disturbance or tree removal) on the site. At that time, the property owner shall establish a timeframe for the work period and schedule a second meeting, at a minimum, with the Department of Community Development during the land disturbance or foundation excavation phase of the project.
- 22. The property owner shall notify a planner from the Department of Community Development within 7 days of the completion of land disturbance and/or foundation excavation to schedule an on-site meeting to determine if the appropriate erosion control and stormwater management measures are in place and functioning.
- 23. The property owner shall adhere to the following erosion control and stormwater management measures pre-, during, and post- construction:
 - a) Excavation and land disturbance shall occur between May Ist and October Ist;
 - b) No excavation or land disturbance shall be done during rain events;

- Erosion control measures such as silt fences and hay bales shall be installed prior to the start of excavation or land disturbance;
- d) All disturbed areas shall be stabilized immediately upon the completion of the groundwork with silt fences, by mulching with hay, and other acceptable erosion control measures;
- e) All disturbed areas shall be seeded with grass and upon completion of development of the site with native vegetation;
- f) The outfalls at either location near Lots 13 and 48 shall be monitored prior to development on the lots to establish a baseline for water quality;
- g) Daily erosion control inspection reports shall be prepared and submitted to the Tillamook County Department of Community Development during active land disturbance (including but not limited grading, construction of roadways, and foundation excavation);
- h) Monttoring shall occur on a biannual basis upon the completion of the Final Plat approval for 5 years by either Sycan Corporation or the Homeowners Association. In the event that the water quality is being adversely affected, the property owner shall work with Staff and other appropriate entities to remedy the situation.
- i) In the event a lot is developed and construction takes place after the 5-years have elapsed, the individual property owner shall comply with the water quality requirements enumerated in Exhibit B and this requirement will run with the deed. In the event that the water quality is being adversely affected, the property owner shall work with Staff and other appropriate entities to remedy the situation.
- 24. The property owner shall submit a letter from an engineer, geologist, certified engineering geologist or geotechnical specialist verifying that an inspection of the foundation excavation occurred and that the appropriate materials were exposed for the foundation. The letter shall be submitted by the property owner to the Tillamook County Department of Community Development prior to a footing inspection by the local building inspector.
- 25. The property owner shall not alter existing site conditions on adjacent properties as a result of development of the proposed partitioned lots, 13 and 48.
- 26. The property owner shall protect adjoining public and private property from damage during construction, remodeling, and demolition work. Protection must be provided for footings, foundations, party walls, chimneys, skylights, and roots. Provisions shall be made to control water runoff and erosion during construction or demolition activities. The property owner shall provide written notice to the owners of adjoining buildings, and the Tillamook County Department of

Community Development, advising them that the excavation is to be made and that they adjoining buildings should be protected. Said notification shall be delivered not less than 10 days prior to the scheduled starting date of the excavation. These general standards are outlined in the 2007 Oregon Structural Specialty Code.

Additional Conditions of Approval for Lot 13 (Engineering Portion of Geologic Hazard Report for Portion of Tax Lot 00200, Map 05S 11W 24 (Map 05S 11W 24AB), Lot 13 of Sahhali South, Neskowin, Tillamook County, Oregon)

- 27. The property owner shall site the structure at a minimum as shown on Figure 1-1 of the Engineering Geologic Hazard Report.
- 28. The property owner shall adhere to the land grading practices outlined in Section C of the Engineering Geologic Hazard Report.
- 29. The property owner shall adhere to the foundation standards in Section E of the Engineering Geologic Hazard Report.
- 30. Prior to the development of this parcel, the property owner shall submit a stormwater and drainage plan to this department, which shows the methods to be used to contain, control and redirect all stormwater runoff to appropriate drainage ways. Such appropriate methods may be verified by the appropriate entity and shall be employed during construction and post construction. Such a plan is necessary to obtain a Building Permit approval. Temporary measures shall be taken to control storm water runoff and erosion of soils, and shall be shown on construction plans for any approved development. Recommendations for stormwater management (pre-, during, and post-construction) in Section G and H of the Engineering Geologic Hazard Report shall be included in any plans. The property owner shall collect stormwater and convey it in a watertight pipe to the existing storm drain system.

Additional Conditions of Approval for Lot 48 (Engineering Portion of Geologic Hazard Report for Portion of Tax Lot 00200, Map 05S 11W 24 (Map 05S 11W 24AB), Lot 48 of Sahhali South, Neskowin, Tillamook County, Oregon

- 31. The property owner shall setback all development on Lot 48 east of the Geologic Hazard Line as determined in GH-05-11 or as shown on Figure 1-1 in the Engineering Geologic Hazard Report, whichever is more restrictive.
- 32. The property owner shall adhere to the land grading requirements as described in Section C of the Engineering Geologic Hazard Report.
- The property owner shall adhere to the foundation designs outlined in Section E of the Engineering Geologic Hazard Report.

- 34. The property owner shall adhere to the road development standards and requirements in Sections B and F of the Engineering Geologic Hazard Report dated June 25, 2007.
- 35. Prior to the development of this parcel, the property owner shall submit a stormwater and drainage plan to this department, which shows the methods to be used to contain, control and redirect all stormwater runoff to appropriate drainage ways. Such appropriate methods may be verified by the appropriate entity and shall be employed during construction and post construction. Such a plan is necessary to obtain a Building Permit approval. Temporary measures shall be taken to control storm water runoff and erosion of soils, and shall be shown on construction plans for any approved development. Recommendations for stormwater management (pre-, during, and post-construction) in Sections G and H of the Engineering Geologic Hazard Report shall be included in any plans. Sections G and H detail acceptable methods for managing stormwater.

3. EXISTING UTILITY LOCATIONS SHOWN ARE APPROXIMATE ONLY. CONTACT UTILITY COMPANIES FOR PREMARKING.

. TECHNICAL SPECIFICATIONS FOR CONSTRUCTION ARE TO FOLLOW THE MOST CURRENT EDITION OF THE AMERICAN PUBLIC WORKS ASSOCIATION (APWA) SPECIFICATIONS. SEE SPEC'S FOR CONSTRUCTION METHODS AND OTHER NOTES

5. ALL FINAL DESIGNS AND SPECIFICATIONS TO BE APPROVED BY DEQ, OSHD, LOCAL AGENCY AND OTHER

6. UPON COMPLETION OF CONSTRUCTION OF THE PROJECT, CONTRACTOR TO SUBMIT RECORD DRAWINGS TO THE

7. ALL CONSTRUCTION SHALL BE COMPLETED ACCORDING TO THE REQUIREMENTS OF THE GEOTECHNICAL REPORT

B. CONTRACTOR SHALL RESTORE ALL SURFACES TO MATCH EXISTING AND ADJACENT GRADES.

9. CONTRACTOR SHALL ERECT AND MAINTAIN BARRICADES, WARNING SIGNS, TRAFFIC CONES PER OSHA
REQUIREMENTS. ACCESS TO EXISTING DRIVEWAYS AND BUSINESSES TO BE MAINTAINED AT ALL TIMES.

10. SEWER SYSTEM TO BE INSPECTION BY ENGINEER. INSPECTION OF SERVICE LATERALS PRIOR TO ANY

11. SEWER SERVICE SHALL BE 2" DIAMETER.

12. ALL SERVICES SHALL BE A MINIMUM OF 3' DEEP AT THE PROPERTY LINE, OR AS SHOWN HEREON, OR AS

14. ALL SEWER LINES SHALL SUCCESSFULLY PASS AN AIR TEST PRIOR TO ACCEPTANCE AND SHALL BE FREE OF VISIBLE LEAKAGE. ALL DETAILS OF TESTING PROCEDURE SHALL BE SUBJECT TO APPROVAL OF THE ENGINEER.

<u>WATER</u> 15. INSPECTION BY ENGINEER OR DISTRICT REPRESENTATIVE OF WATER SYSTEMS PRIOR TO BACKFILL SHALL BE

16. COORDINATE PLACEMENT OF WATER SERVICE METER WITH THE DISTRICT.

17. CONNECTION OF NEW WATER SERVICE TO EXISTING MAIN SHALL BE COORDINATED WITH THE DISTRICT. ALL WATER MAIN VALVES SHALL BE OPERATED BY DISTRICT PERSONNEL. NO EXCEPTIONS UNLESS AUTHORIZED IN WRITING.

19. ALL STORM DRAINAGE PIPE SHALL BE HDPE CONFORMING TO ASTM F-405, ASTM F-667, AASHTO M252 AND AASHTO M-294, TYPE 5' - JOINTS SHALL BE FULL WRAP-AROUND COUPLER WITH NEOPRENE GASKET AS PER

<u>UTILITIES</u> 20. TELEPHONE AND CABLE TELEVISION COMPANIES TO COORDINATE THEIR INSTALLATION EFFORTS WITH POWER

21. ALL LENGTHS, SIZES AND SPECIFICATIONS OF PIPE, CONDUIT AND CABLE FROM RIGHT-OF-WAY TO BUILDING

22. PHONE AND POWER SERVICE TO BE COORDINATED WITH APPLICABLE UTILITY AGENCY. LOCATION OF

23. NOT ALL ELECTRICITY, AND CABLE TV SHOWN FOR SAKE OF CLARITY. ALL SERVICE LINES TO BE PROVIDED THROUGH UNDERGROUND SERVICES WITHIN THE RIGHT-OF-WAY OR APPROVED EASEMENTS.

SCOPE OF WORK

WATER LINE CONSTRUCTION 8" & AWWA C-900 PVC CL200 WATERMAIN 8" & MJx8" & MJ 45° BENDS 8" øMJx8" øMJ 22.5° BENDS 8" & MJx8" & MJ 11.25° BENDS 6" ø AWWA C-900 PVC CL200 WATERMAIN 6" øMJx6" øMJ 45° BENDS 6" & MJx 6" & MJ 22.5° BENDS 6" & MJx 6" & MJ 11.25° BENDS 1" # WATER SERVICE CONNECTIONS. 2120 LF FIRE HYDRANT ASSEMBLY BLOW OFF ASSEMBLY AIR RELEASE VALVE

UNDERGROUND ELECTRICAL UTILITIES PRIMARY POWER CONDUIT 2" & PVC SECONDARY POWER CONDUIT 3" PVC CABLE TV CONDUIT 2" & PVC TELEPHONE CONDUIT 2" # PVC POWER TRANSFORMER VAULTS 36" DEEP UTILITY TRENCH 48" DEEP UTILITY TRENCH

SEWER FORCE MAIN 3" \$ 5CH 40 PVC PIPE

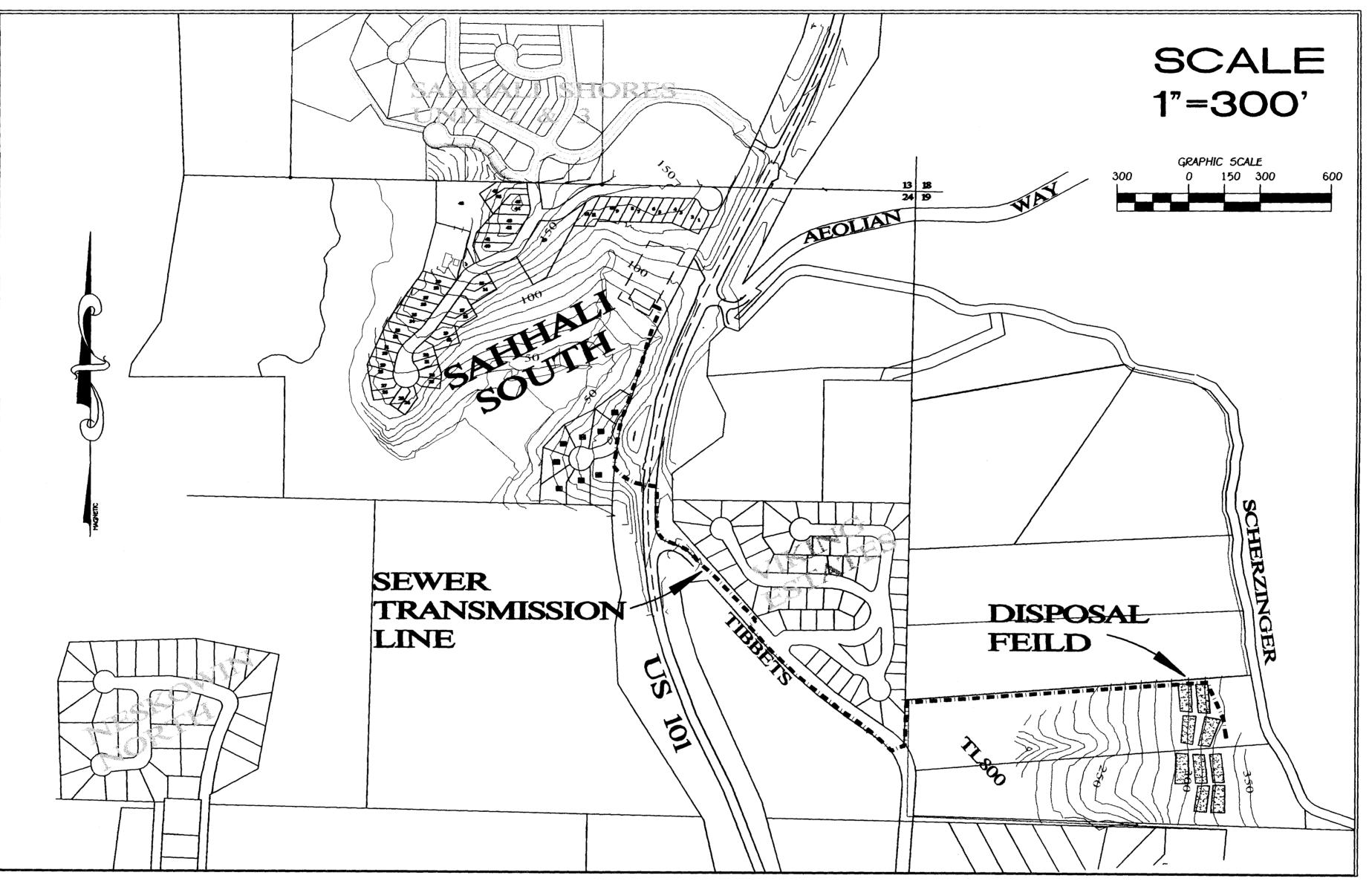
> 2" \$ 5CH 40 PVC PIPE SEWER SERVICE ASSEMBLIES 2" # PIGGING PORT

3" # PIGGING PORT HORIZONTAL BORE WITH CASING PIPE

EROSION CONTROL MAINTENANCE

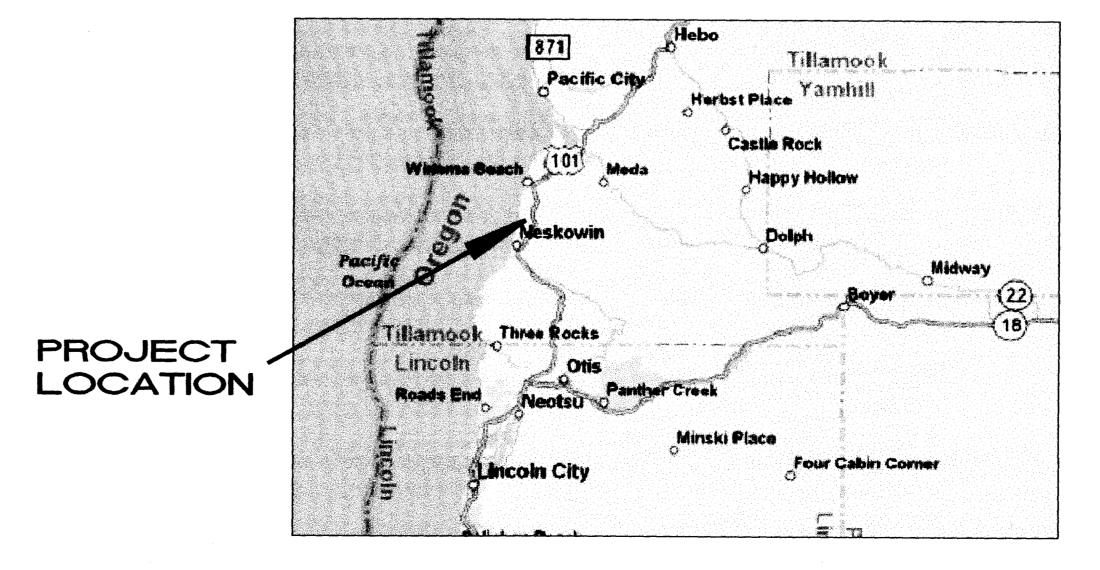
EROSION CONTROL FACILITIES BIO BAGS SEDIMENT FENCE GRASS SEEDING AND MULCH

SAHHALI SOUTH CONSTRUCTION PLANS



ROADWAY CONSTRUCTION 3" ASPHALT CONCRETE PAVEMENT EXTRUDED CONCRETE CURB PIT RUN BASE ROCK 3" MINUS AGGREGATE LEVELING ROCK CONSTRUCTION FABRIC CURB DEMOLITION EARTHWORK

STORM DRAINAGE CONSTRUCTION 18" & HDPE STORM DRAIN PIPE 12" & HDPE STORM DRAIN PIPE 8" & HDPE STORM DRAIN PIPE HDPE FITTINGS 8". 12". & 18" TRAPPING CATCH BASINS STORM DRAINAGE MANHOLES SETTLING POND OUTFALL STRUCTURES



VICINITY MAP

SHEET INDEX

OVERALL LAYOUT EROSION CONTROL PLANS EROSION CONTROL DETAILS PROPOSAL POINT PLAN & PROFIL HERON VIEW PLAN & PROFILE

COVER SHEET

ROAD CROSS SECTIONS WATER & SEWER PLAN PELICAN POINT

POWER UTILITY PLAN BORING PLAN SEWER DETAILS WATER DETAILS

TL202 & LOT 48 ROAD EMERGENCY ACCESS ROAD

UTILITY PROFILE

OWNER

SAHHALI SOUTH 840 BELTLINE RD. STE 202 SPRINGFIELD, OR 97477

DEVELOPER

SYCAN B CORP. ATTN: TIM HOVET 840 BELTLINE RD. STE 202 SPRINGFIELD. OR 97477 TEL: (541) 746-8444 FAX: (541) 746-2590

ENGINEER/SURVEYOR:

HLB & ASSOCIATES INC. ATTN: RON LARSON PE, PLS MARK TELHED, PE, PLS P.O. BOX 219 MANZANITA, OR 97130 TEL: (503) 368-5394 FAX: (503) 368-5847

WETLANDS:

PACIFIC HABITAT SERVICES ATTN: JOHN VAN STAVERN 9450 SW COMMERCE CIRCLE, STE. 180 WILSONVILLE, OR 97070 TEL: (800) 871-9333 FAX: (503) 570-0855

TRAFFIC ENGINEER:

JRH ENGINEERING ATTN: JIM HANKS, PE 4765 VILLAGE PLAZA LOOP, STE. 201 EUGENE. OR 97401 TEL: (541) 687-1081 FAX: (541) 345-6599

SANITARIAN:

5MITS & ASSOCIATES, INC. ATTN: JOHN SMITS, PE 16878 SW GASSNER LANE LAKE OSWEGO, OR 97035 TEL: (503) 699-2696 FAX: (503) 699-2876

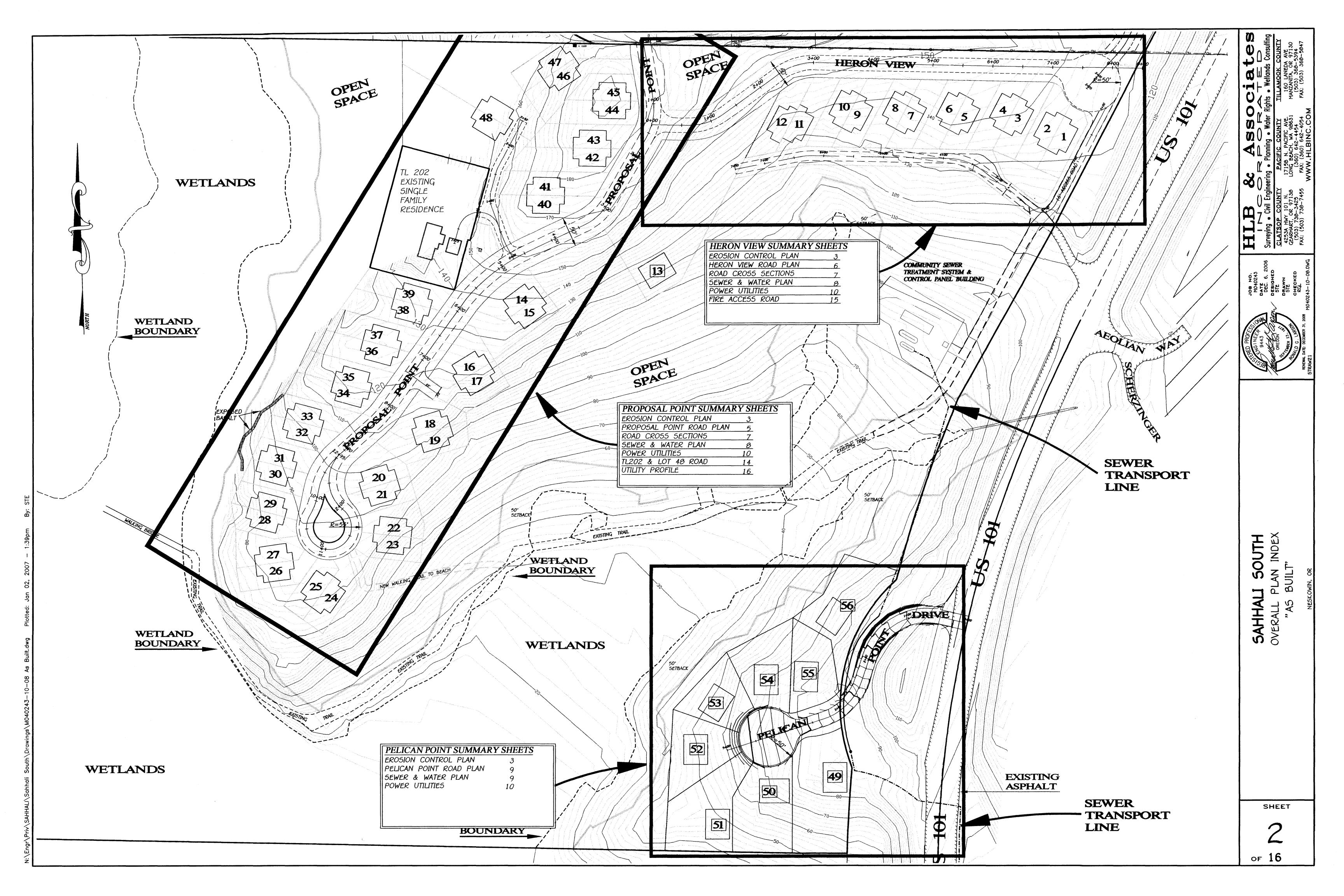
GEOLOGIST:

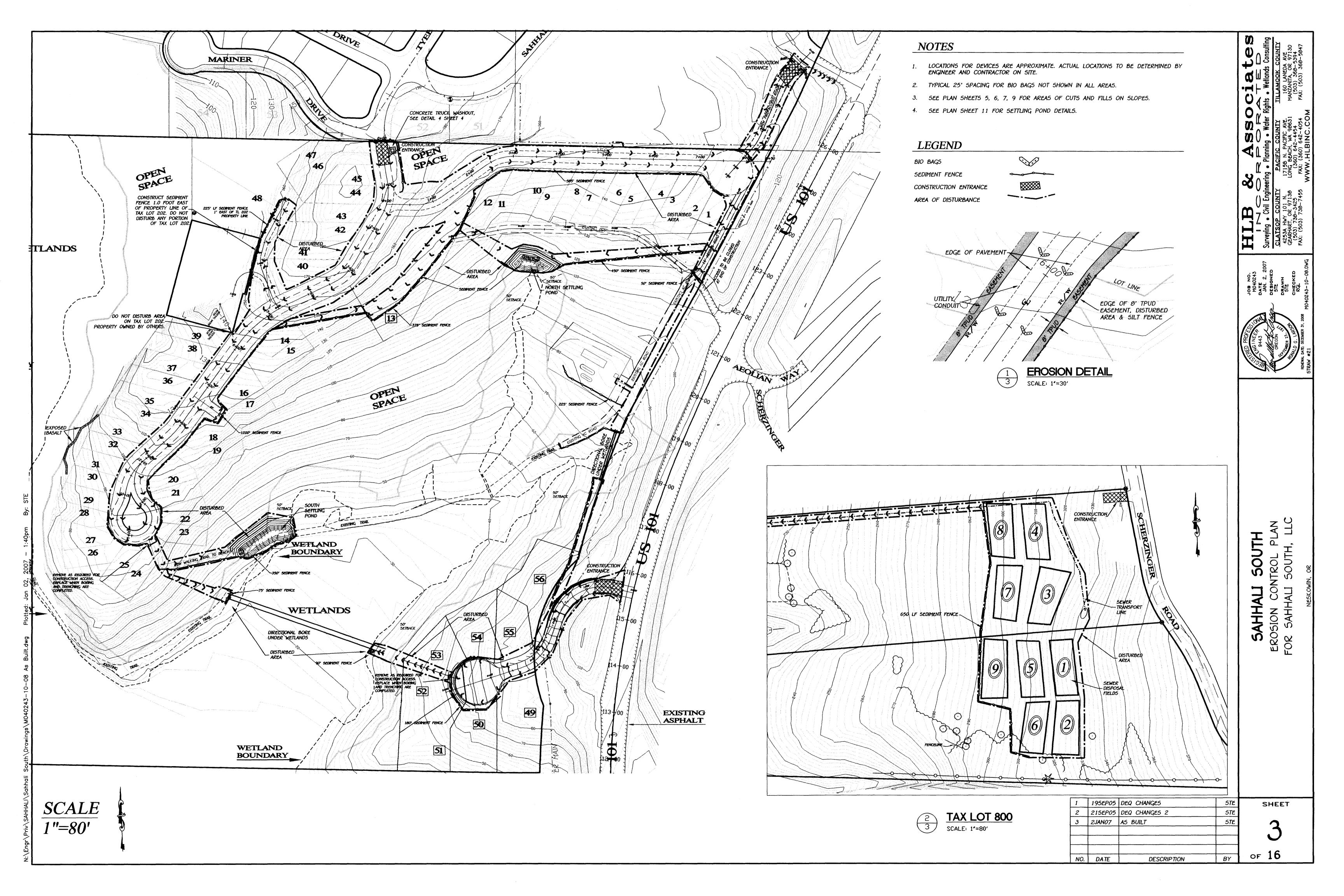
ENVIRONMENTAL MANAGEMENT SERVICES. INC. ATTN: WES GREENWOOD, RG 4080 INTERNATIONAL WAY MILWAUKIE. OR 97222 TEL: (503) 353-9691 FAX: (503) 353-9695

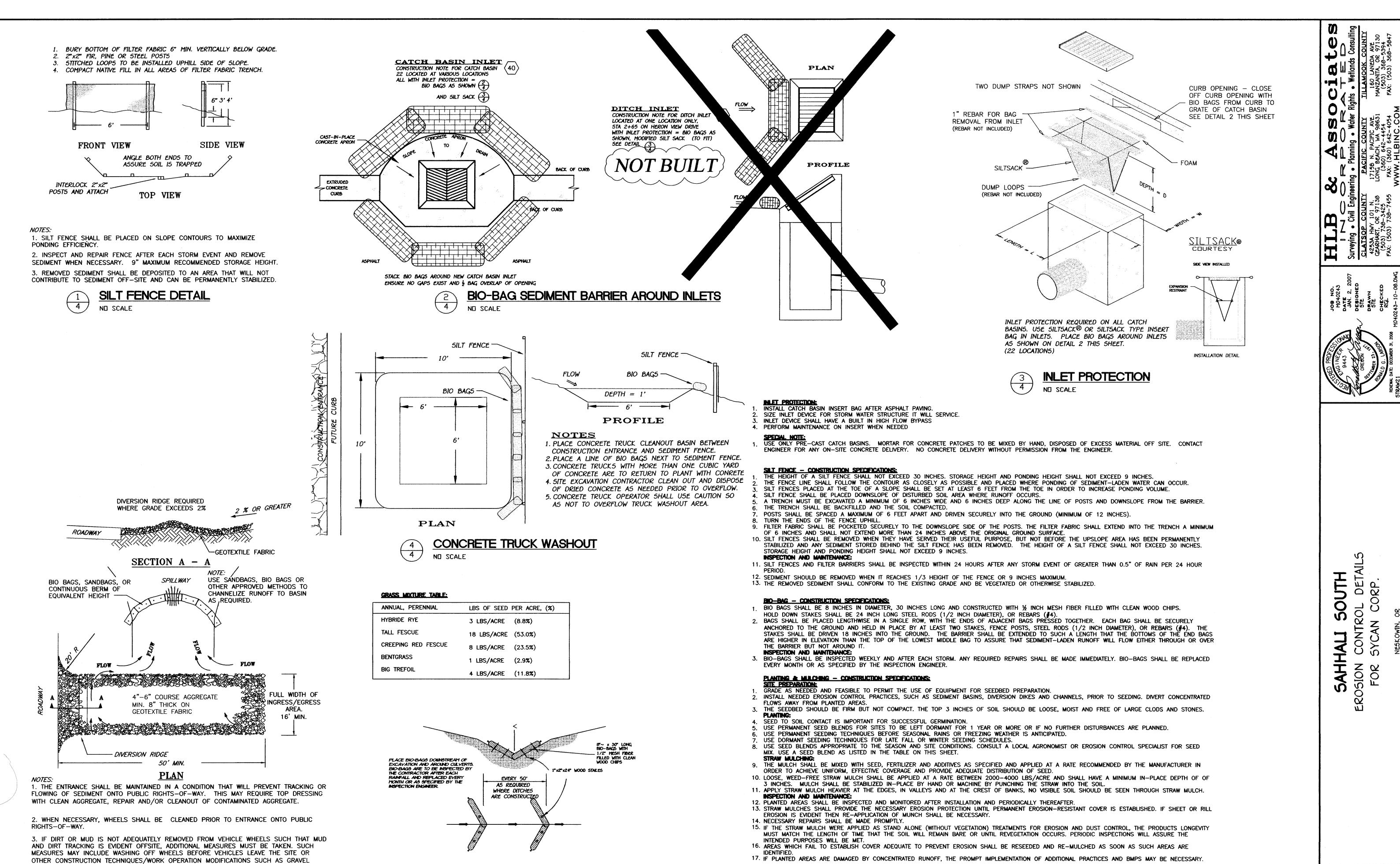
> 1 2JAN07 A5 BUILT 5TE of 16 NO. DATE BY DESCRIPTION

SOUTH ION PLANS SAHHALI CONSTRUCTIC

SHEET







FILTER BERMS, STREET CLEANING (NOT INTO STORM DRAINS), ETC. 4

TEMPORARY GRAVEL CONSTRUCTION ENTRANCE/EXIT



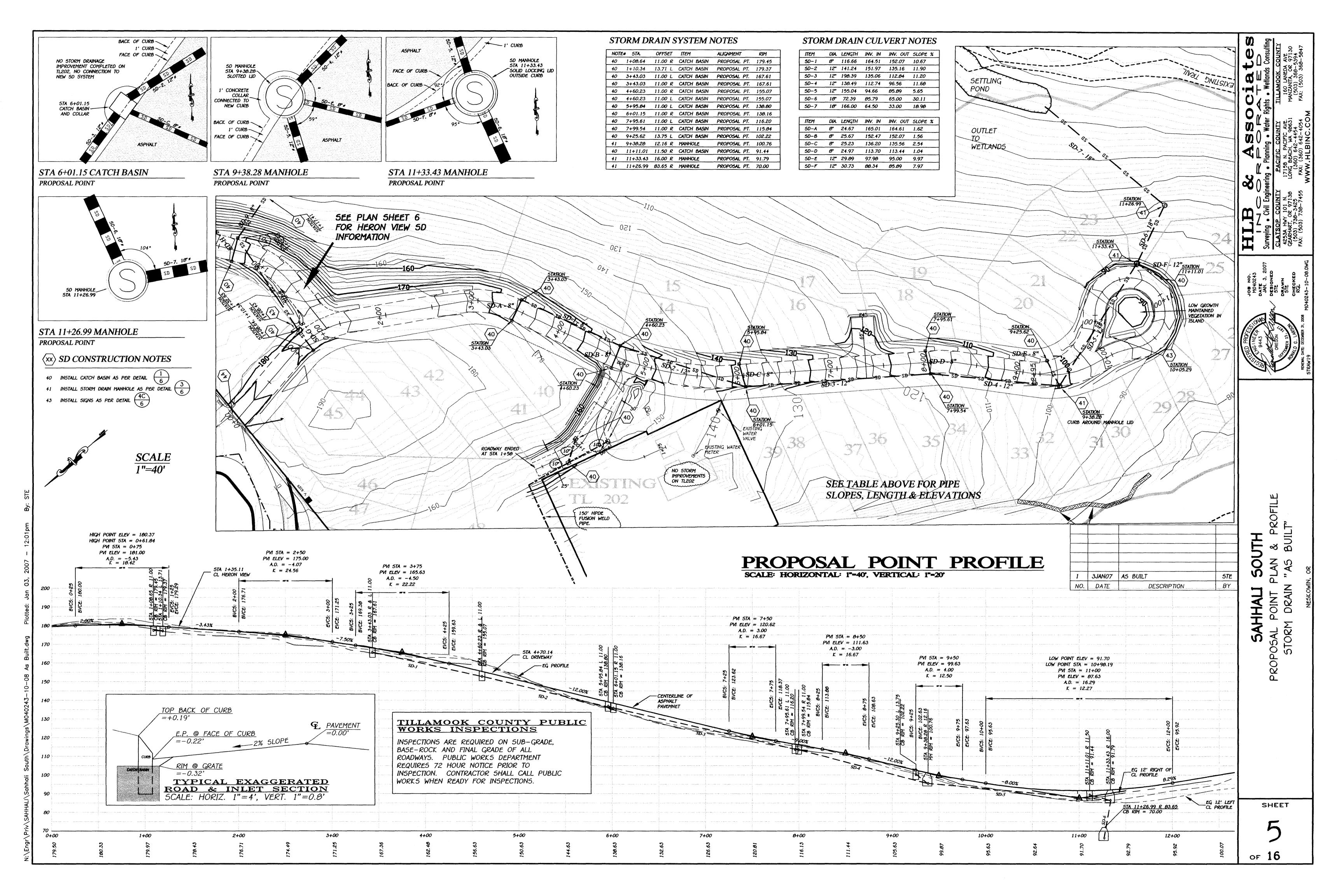
TYPICAL BIO-BAG DETAIL

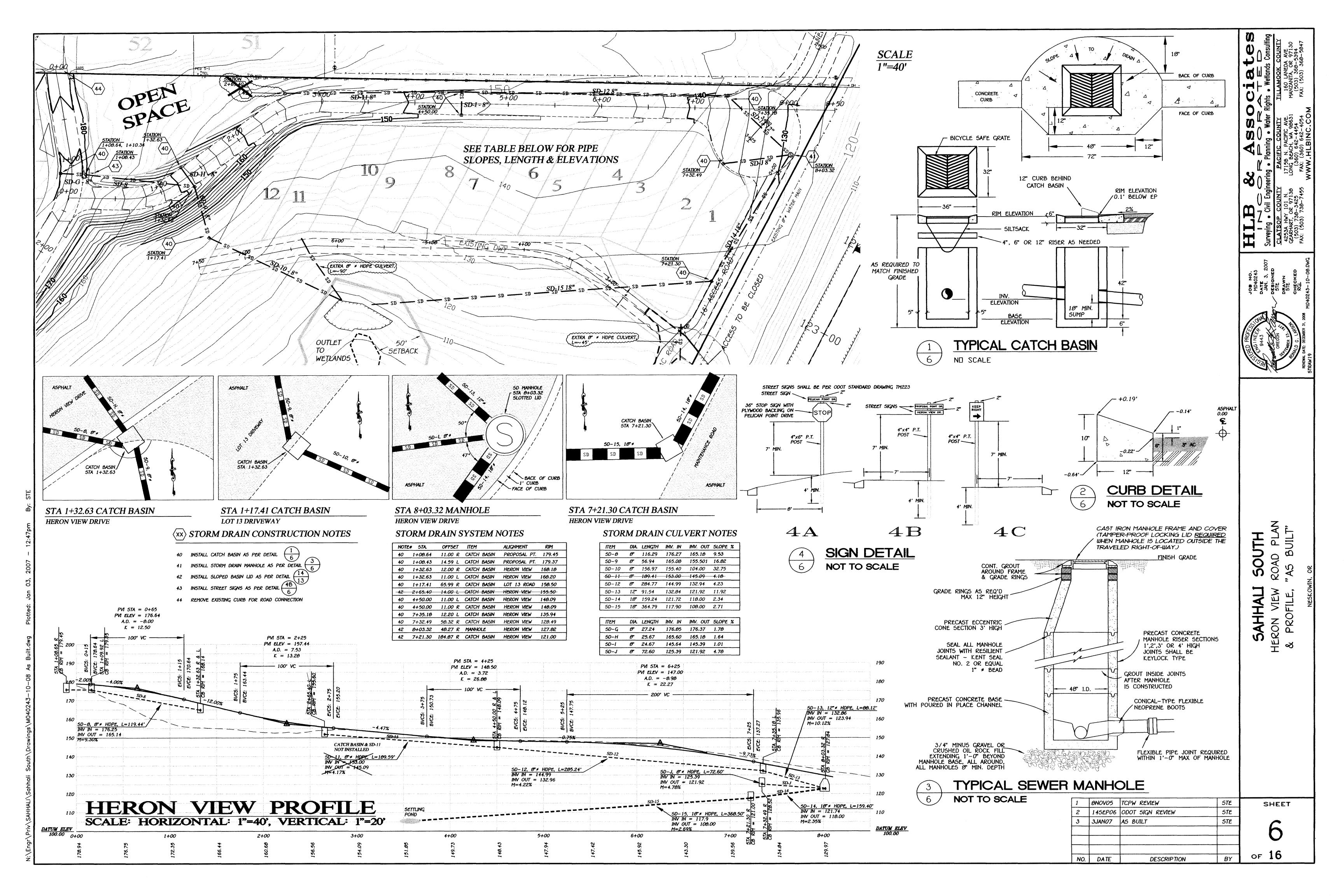
1 | 195EP05 | DEQ CHANGES 5TE 2 275EP05 DEQ CHANGES 5TE 3 | 050CT05 | DEQ CHANGES 4 2JANO7 A5 BUILT 5TE

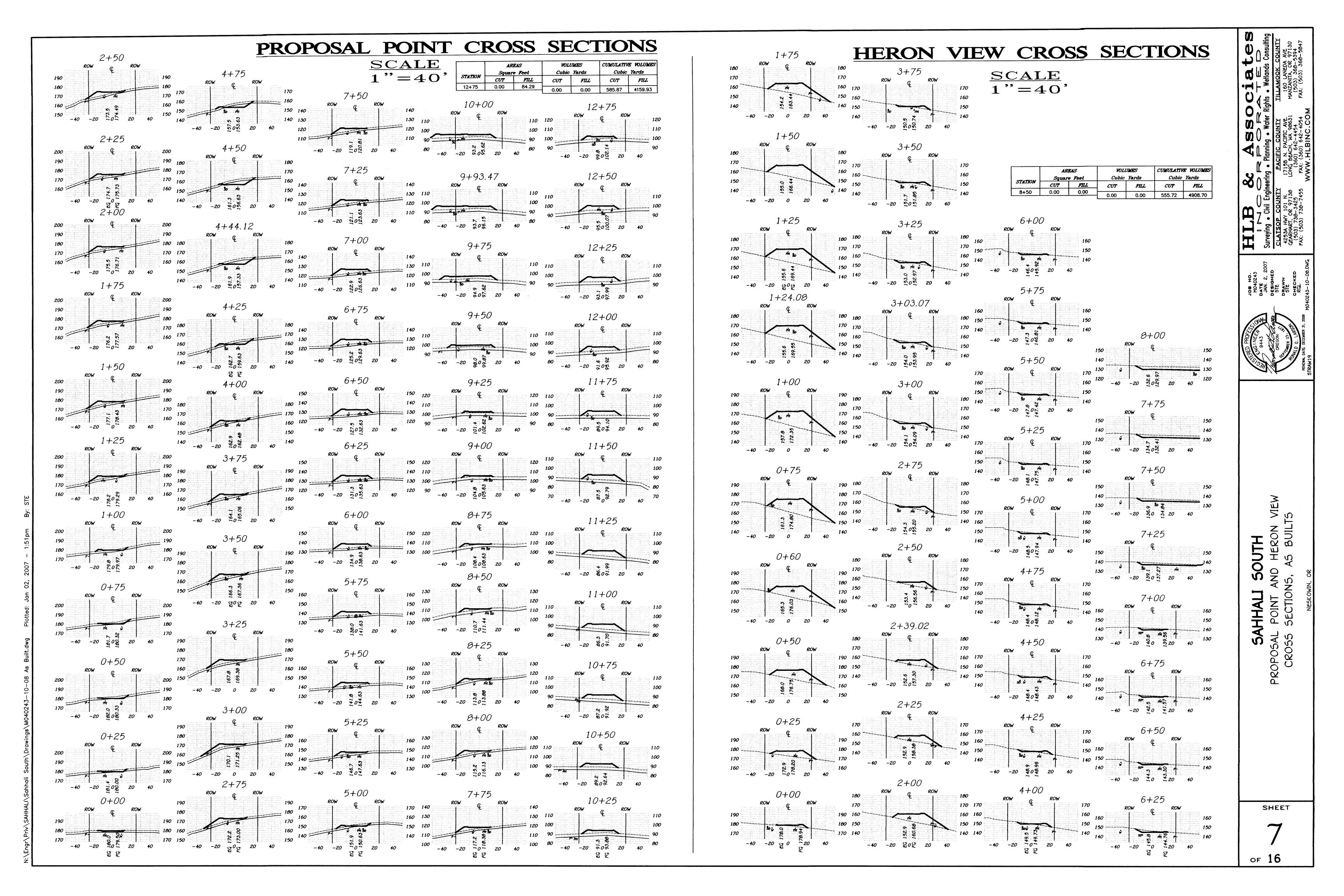
DESCRIPTION

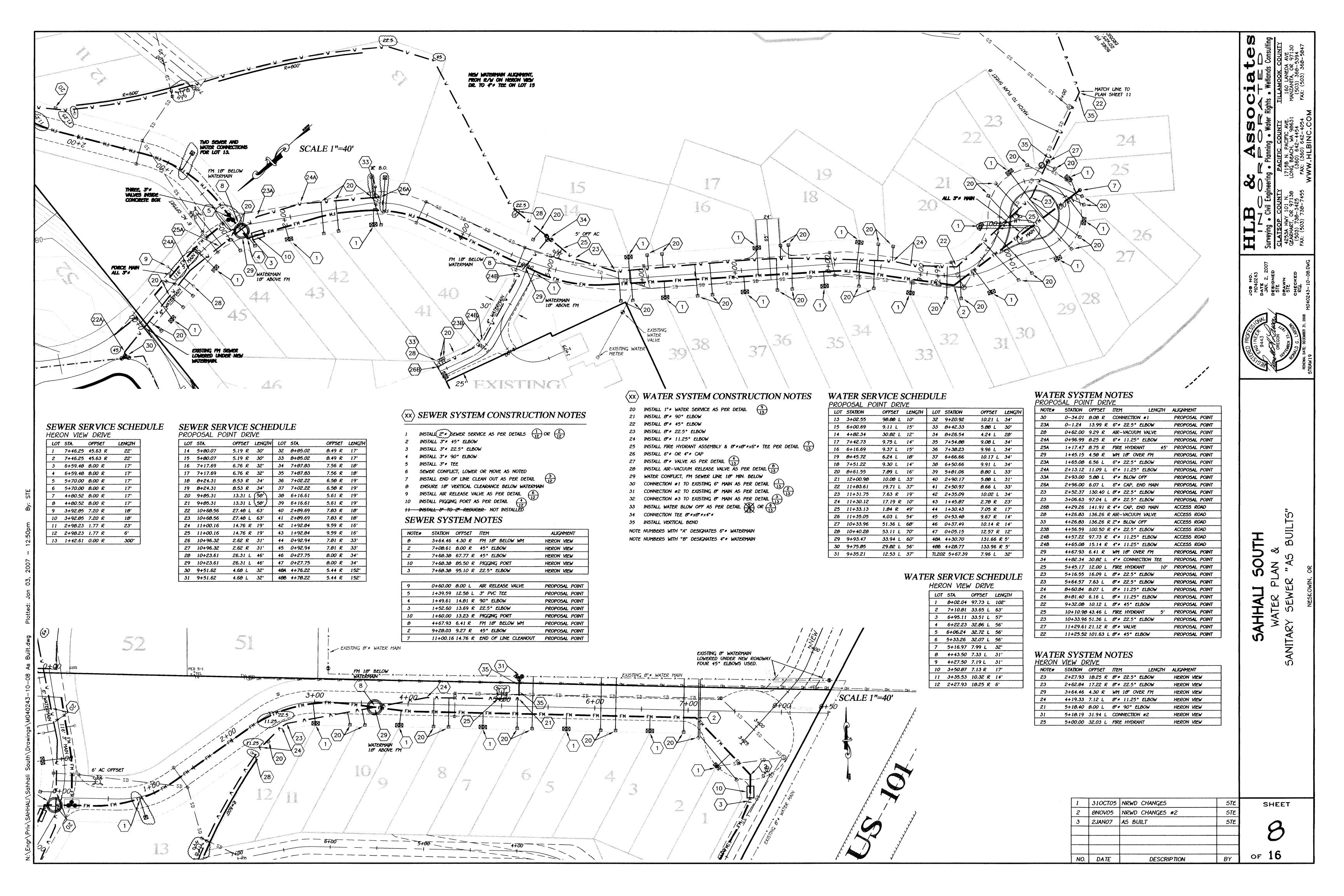
NO. DATE

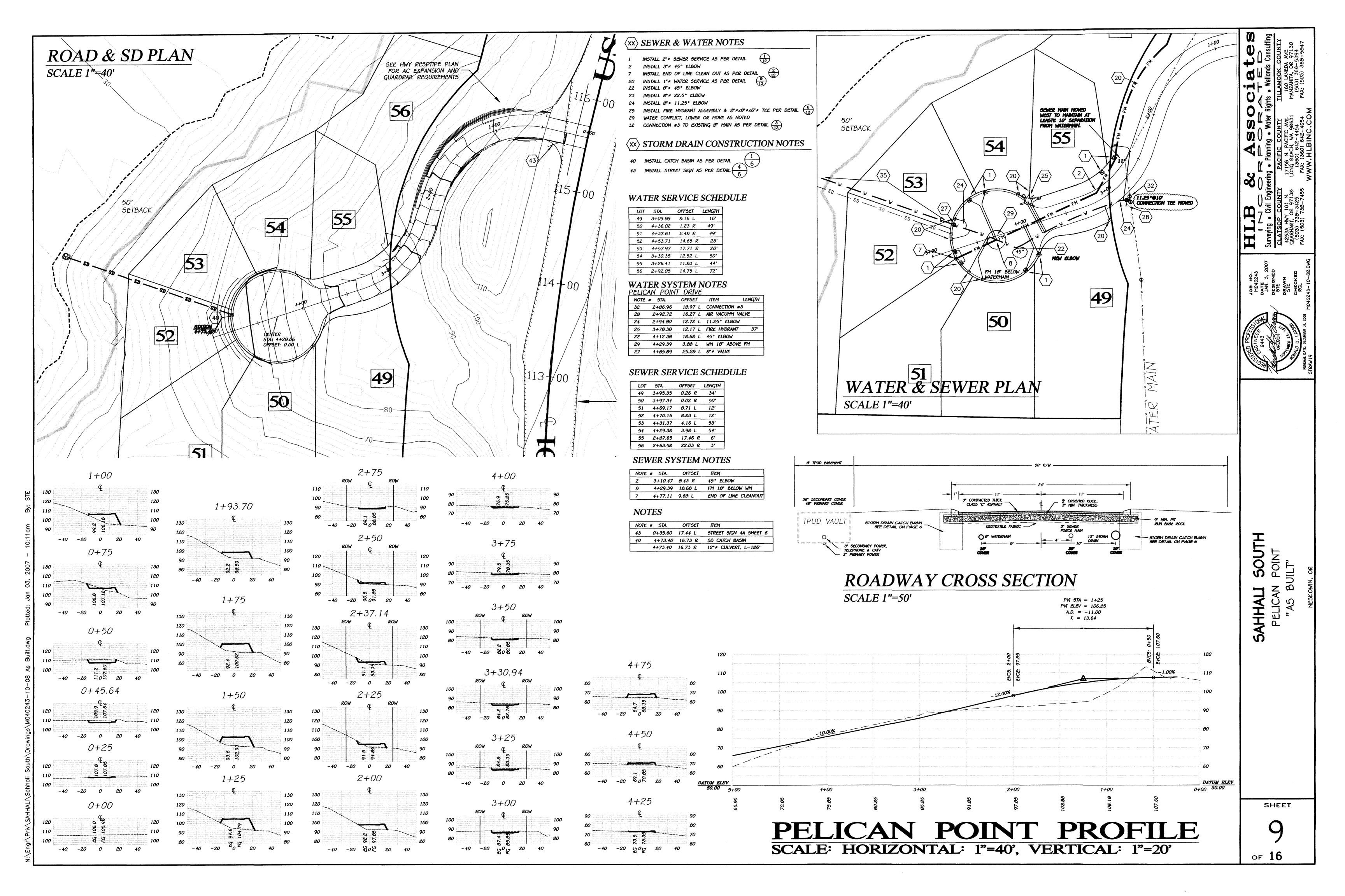
SHEET OF

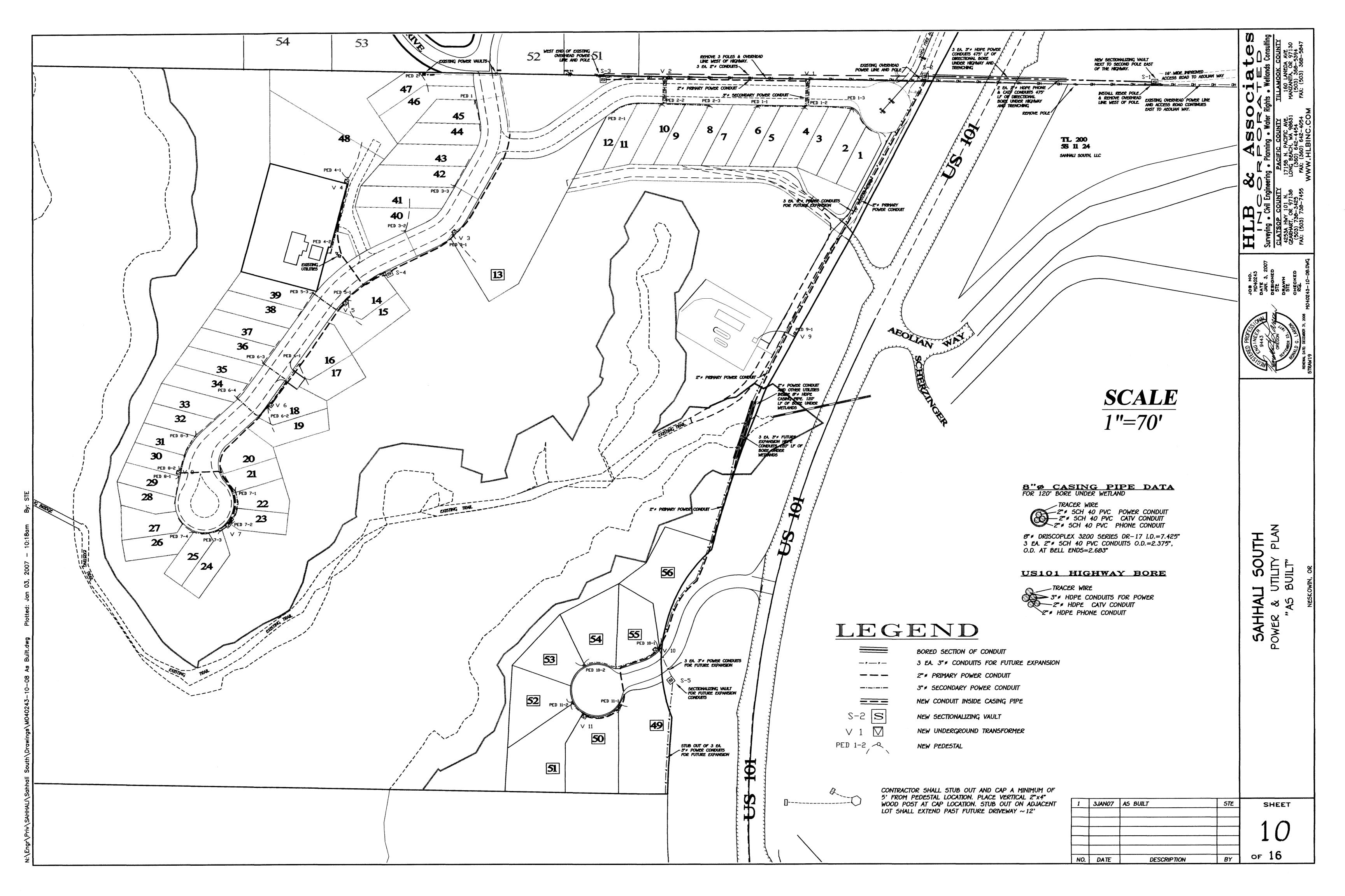


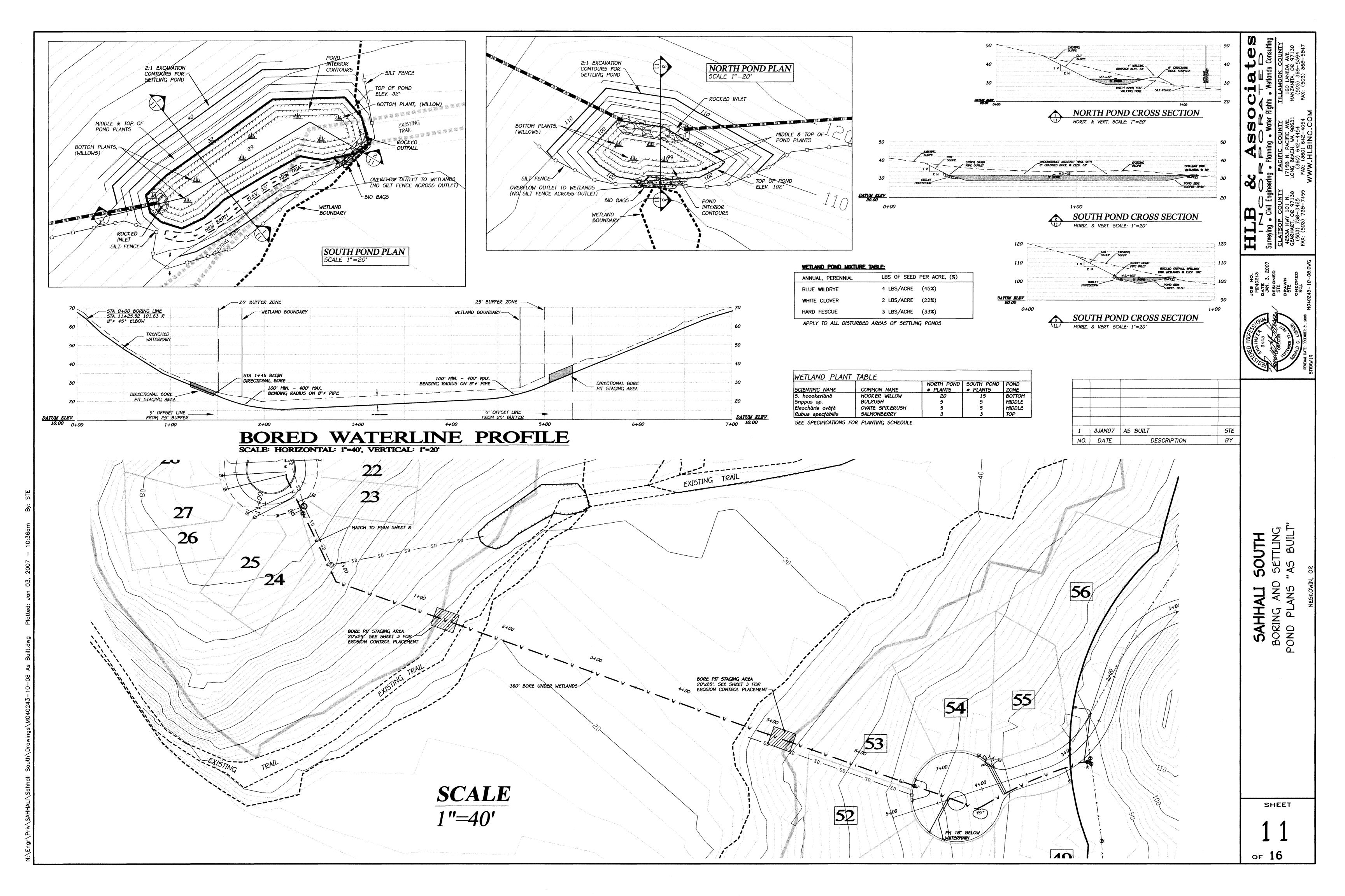


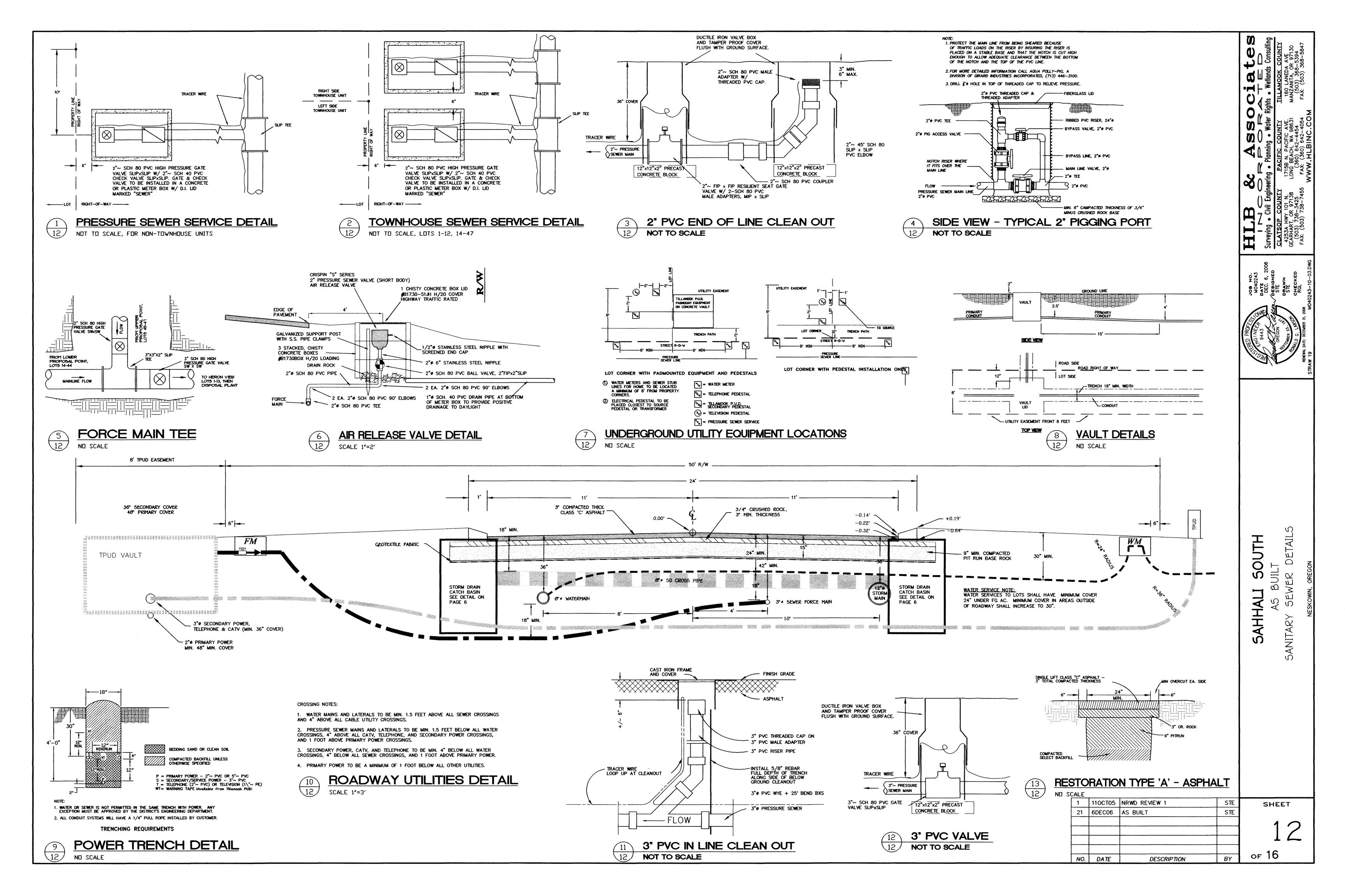


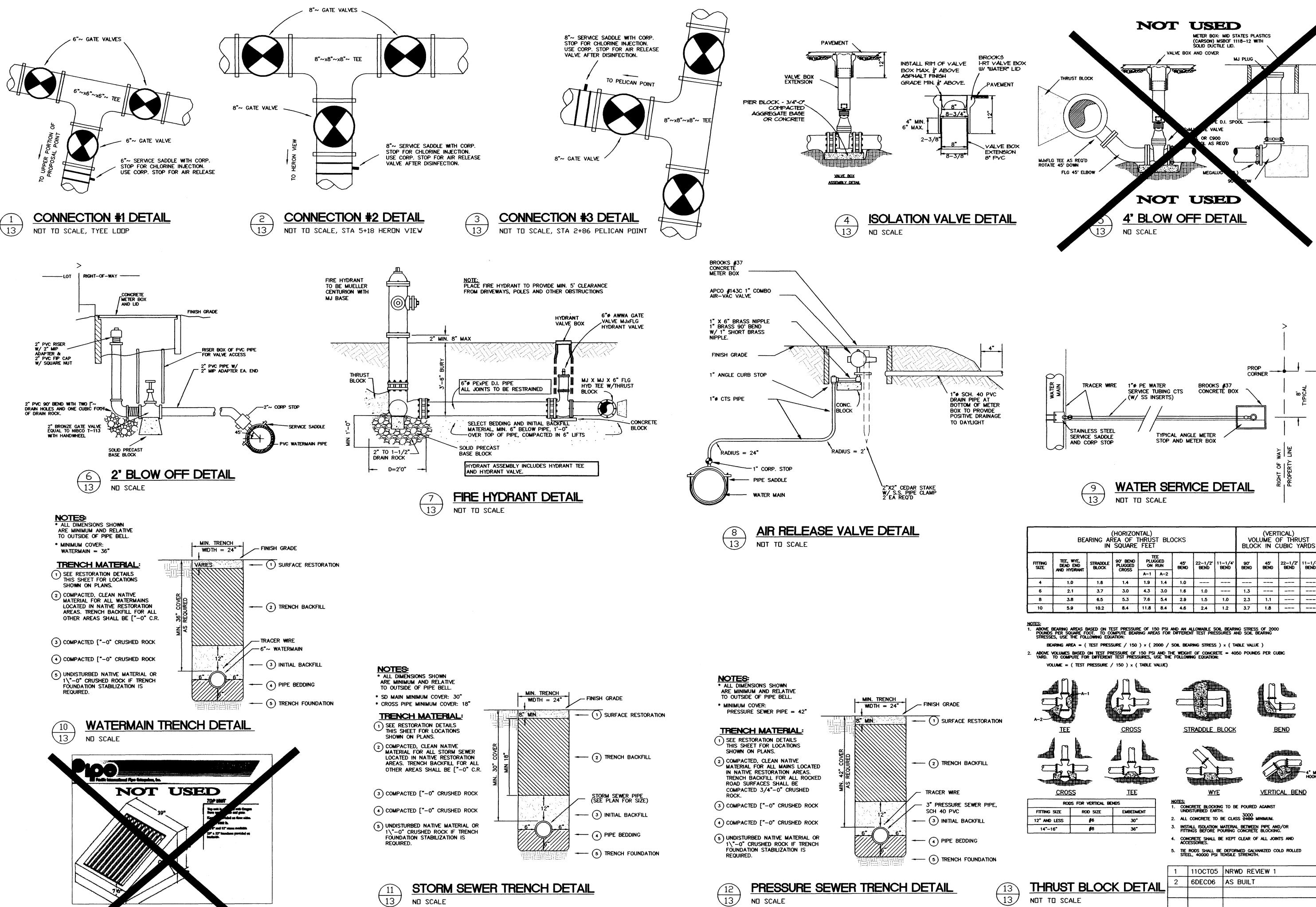












TCH BASIN LID PL

OT TO SCALE

CEMENT

SOUTH AIL

VERTICAL BEND

DESCRIPTION

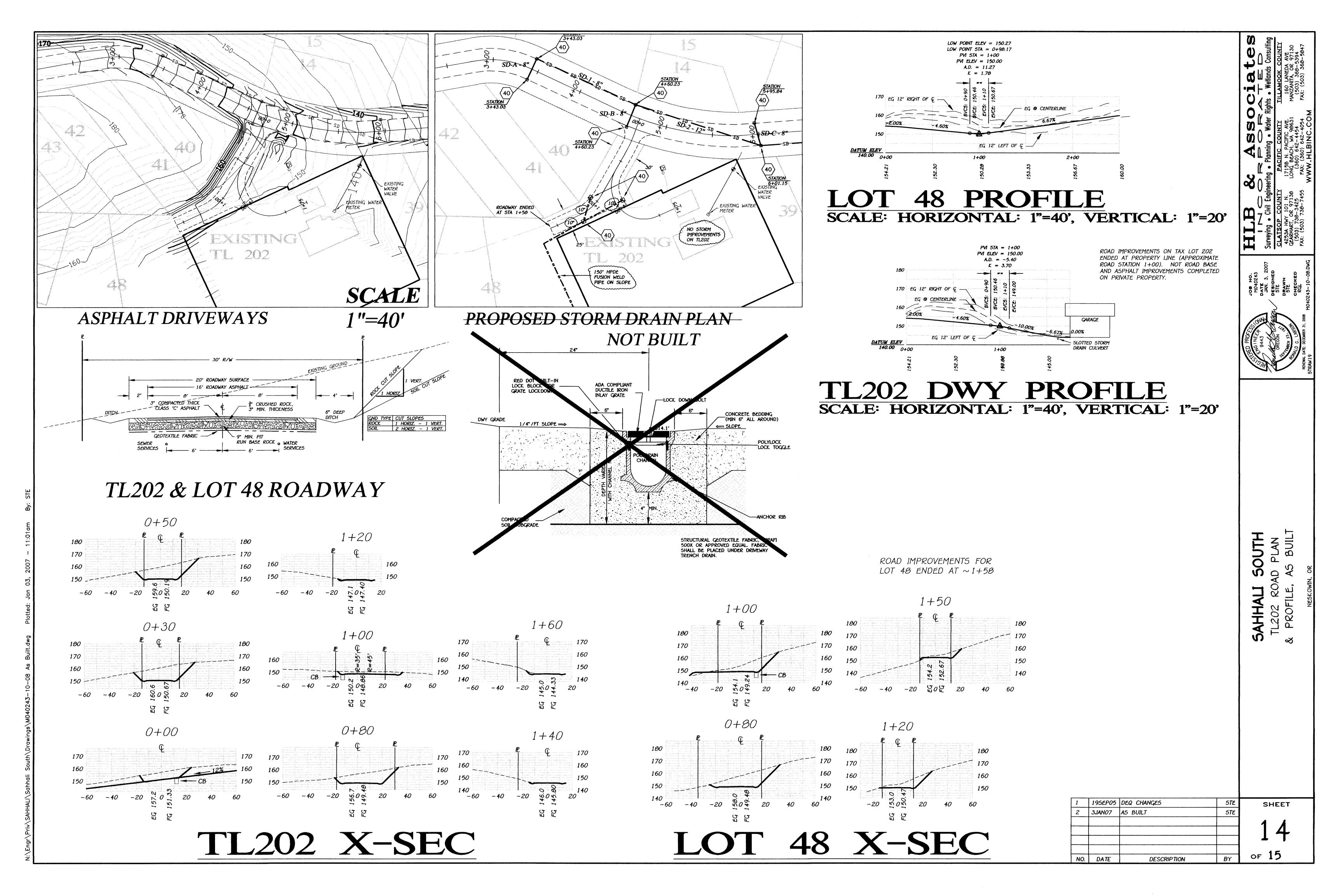
NO. DATE

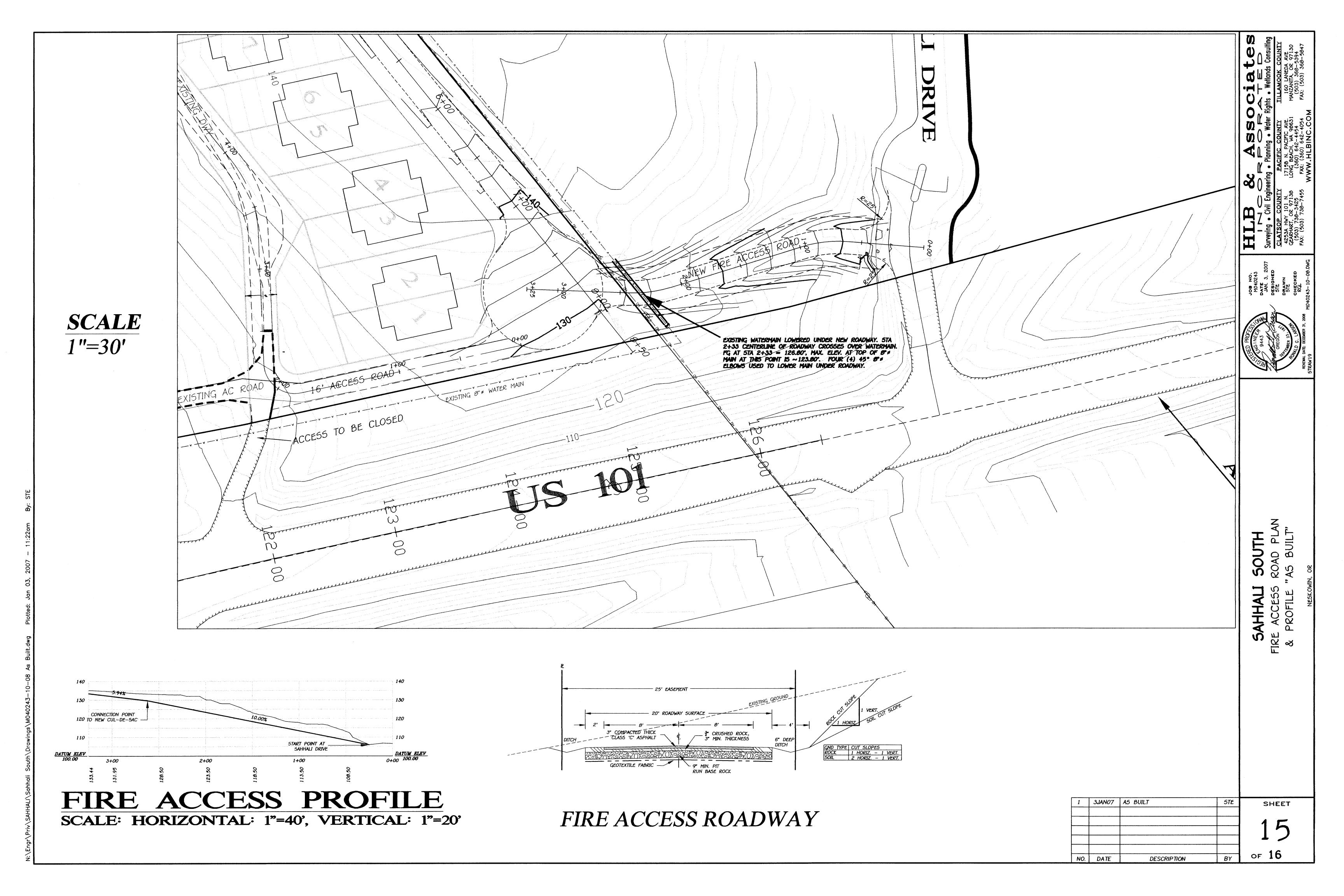
SHEET of 16

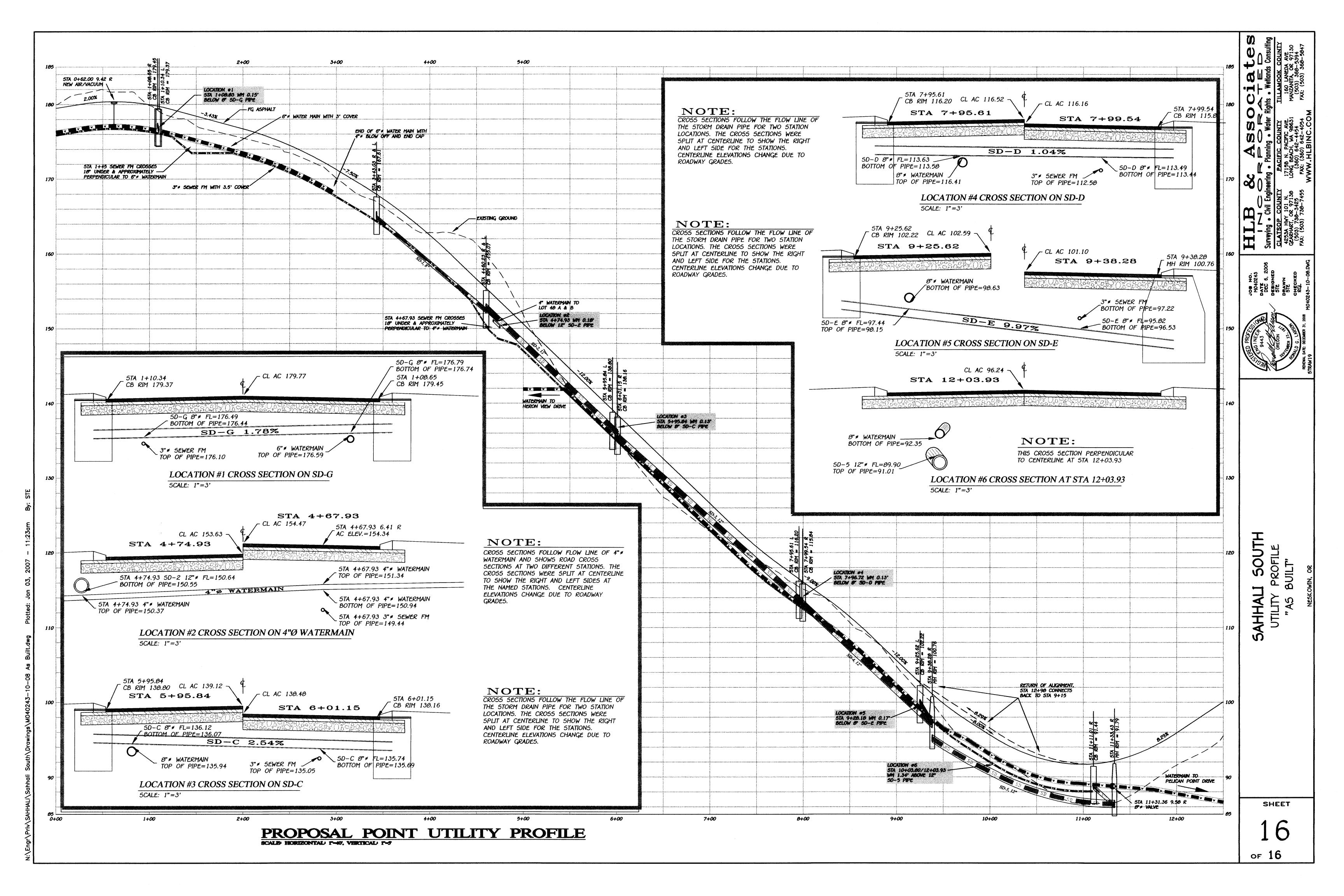
STE

STE

BY







DEVELOPMENT SUMMARY

THE PLAT SHOWS TWO MAJOR PARTITIONS APPLICATIONS.

LOT 13. SHIPHUI SOUTH, A DUST RECORDED SERVICION LOT, MILL BE PARTITIONED TO CREATE ONE ADDITIONAL PRACTE AND A PRIFTIEND ROUGH PROMOTE ARCESTS TO TO THE THOU RESULTS FROM PARCELS MODI LOT 13. THESE CURRENTLY ARE NO EXISTENCE STRUCTURES ON LOT 13.

LOT 46, SMHALI SOUTH, A DULY RECOPCED SUBDIVISION LOT, WILL BE PARTITIONED TO CREATE CHE ADDITIONAL PARCEL AND A PARTITION ROAD TO PROVIDE ACCESS TO GIVE THE INFO RESULTING PARCELS FROM LOT 46 AS NELL AS ACCESS TO THE CASTING PARCELS FROM LOT 46 AS NELL AS ACCESS TO THE CASTING PARCELS ROOT LOT 46 AS NELL AS ACCESS TO THE CASTING HOME AT LOT 202. THERE CURRENTLY ARE NO AUGING STRUCTURES ON LOT 48.

LOT INFORMATION

CURRENT LOT AREA LOT 13 = 38,452 5.F. = 0.88 ACRES

CURRENT LOT AREA LOT 48 = 46,294 S.F. = 1.06 ACRES

PROPOSED LOT AREAS PARCEL 1 = 22,578 S.F. = 0,52 ACRES PARCEL 2 = 17,846 S.F. = 0.41 ACRES

ROAD INFORMATION

VANORA STREET AREA = 5.870 S.F. = 0.13 ACRES

THUASSA DRIVE AREA = 23,255 S.F. = 0.63 ACRES

ENGINEER/SURVEYOR/PLANNER

HLB CTAE INC. ATTN: RON CARSON PE PLS P.O. BOX 219 MANZANITA, DR 97130 (503) 368-5394 PHONE (503) 368-5847 PAX

BASIS OF BEARING

THE DIRE REVIEW FUNDS MANUSCRIPS AT THE SECTION CORNER COPYRON TO SECTION 13.16,13.24, AND 5.78 SIGN REBAR LOCATED ALONG THE NORTH SIDE OF SHEED WIRE PRICE SOUTH 6.85 OF INTERSECTION TO THE LOCATED ALONG THE MORTH SIDE OF SHEED WIRE 98% C - 339 R. AND SAMBAL DRIVE BEARS N BY BY ALVES WILLIAM FOR SIDE OF THE STATE C - 300 R. AND SAMBAL DRIVE BEARS N BY BY ALVES WILLIAM SIDE OF THE STATE C - 300 R. AND SAMBAL DRIVE BEARS N

PROJECT BENCHMARK

ELEVATION DATUM IS BASED UPON AN ASSUMED ELEVATION OF 151.21' ON THE NORTHMAST PROPERTY CORNER OF TAX LOT ZOZ. THIS IS A COMMON CORNER MITH LOT 48 OF SAMMAL SOUTH SUBMISHED ELEVATION OF 151.21' ON THE

SAHHALI SOUTH CONSTRUCTION PLANS TO CREATE 2 NEW PARCELS **LOT 13 AND 48**

SCOPE OF WORK

CLEAR AREA EXCAVATION VANORA STREET BO CV.

ASPHALT PAVEMENT THALASSA DRIVE VANDRA STREET

UTLITIES I' HOPE WATER SERVICE TURBING 250 LF F' 50H 40 PMC SANTARY SERVER 161 LF F' 50H 40 PMC CAN'UT COMMUTE 282 LF F' 50H 40 PMC COMMUTE 282 LF F' 50H 40 PMC COMMUTE 282 LF FOR 14 PMC COMMUTE 284 LF FOR 25H 40 PMC COMMUTE 284 LF FOR 25H

PROJECT PLAN INDEX LOCATION

UTILITIES

WATEC NESCOUN REGIONAL WATER DISPRICT SERVER COMMON PER STOTEM STATE STOTEM STATEMENT OF THE MOMENTURE ASSOCIATION OF THE MOMENTARY ASSOCIATION OF THE MOMENT ASSOCIATION OF T

OWNERS

SAMMALI SOUTH, LLC 840 BELTILINE ROAD, SUITE BUZ SUPPRESIDENCE OF STATZ

DEVELOPER

SYCAN DEVELOPMENT CORP ATTN WHITNEY BOSS B40 BELTLINE ROAD, SUITE BUZ SPRINGPIELD, OR 97477 (541) 746-8544 PRONE (541) 746-2590 FAX



500 45 4FE

527+3724W

PARCEL 1

PARCEL 2











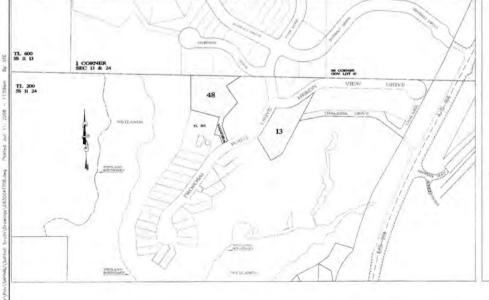


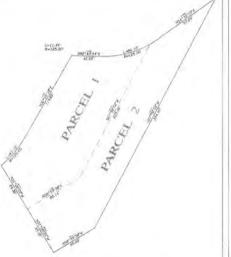
SAHHALL SOUTH
COVER SHEET
CONSTRUCTION PLANS

SHEET

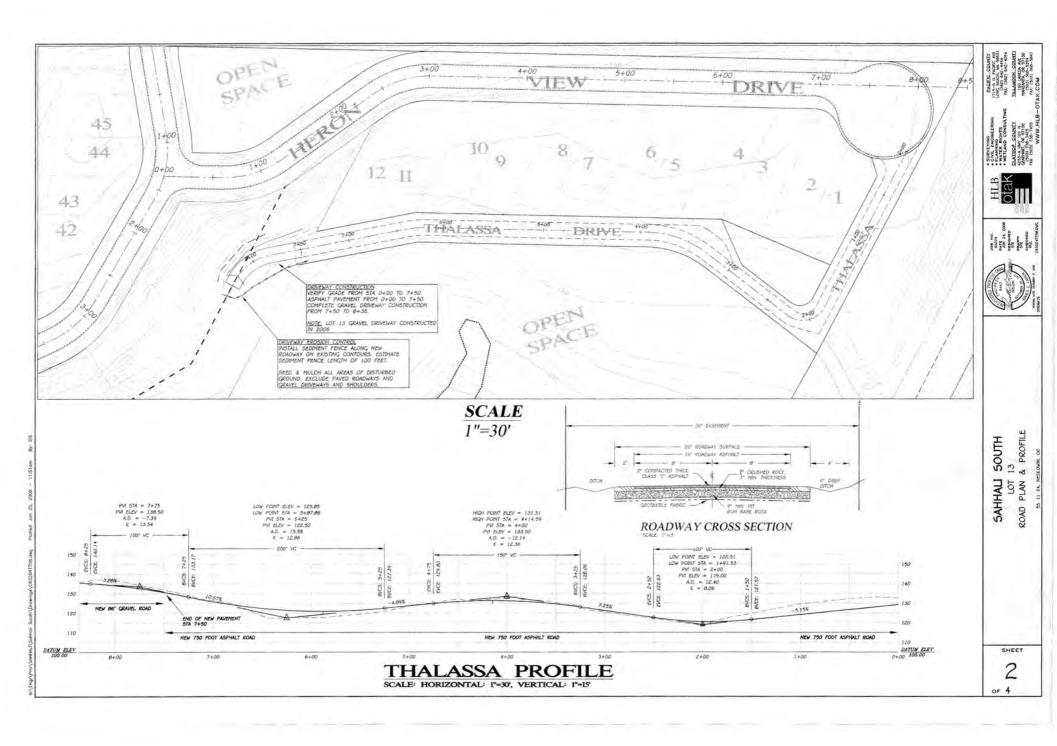
or 4

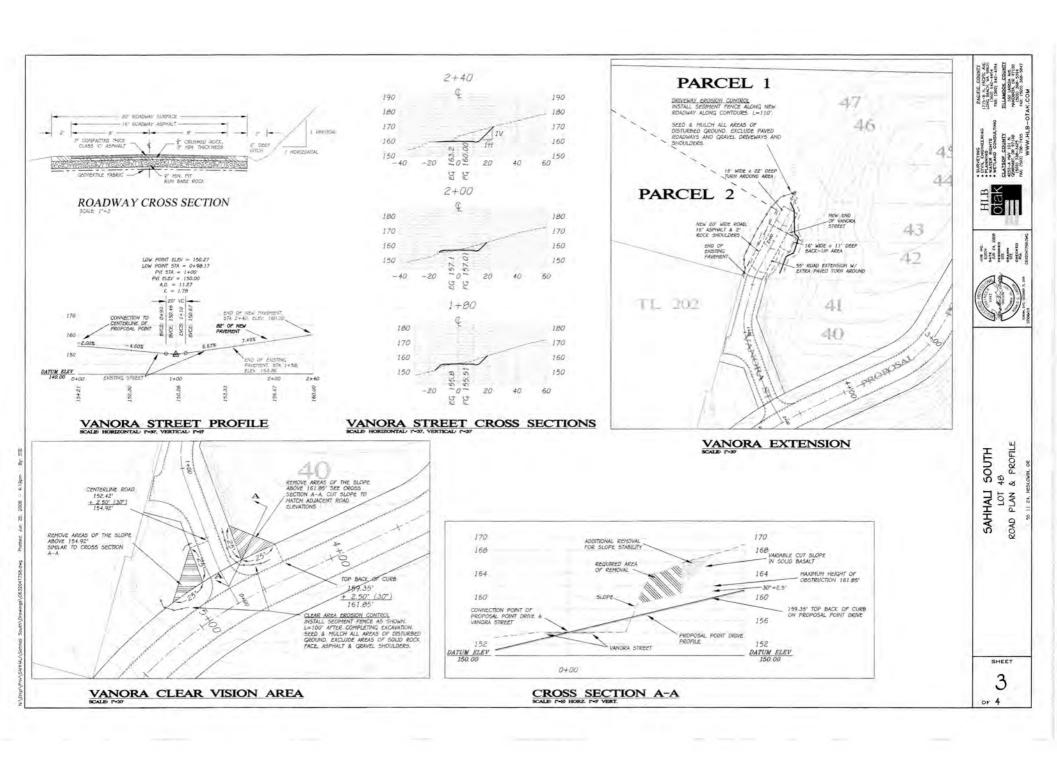
LOT 48 PARCELS











LOT 13 UTILITY NOTES:

PARCEL I UTILITIES

SEWER - NO CHANGES NEEDED, SEWER SERVICE LOCATED AT NORTH END OF PROPERTY OFF OF HEADN VIEW DRIVE.

OTHER UTILITIES — POWER CATY & TELEPHONE CONDUITS TO THE NEW COMMON LINE RETYSENT THE PRACELS START CONDUITS WITH SWEEPS AND TERMINATE ALL COMPUTE UNDERSPONDING WITH EVAL P.T. BOARD AT COMMON LINE BETWEEN PARCEL I & E. MSTALL POLL ROYES.

PARCEL 2 UTILITIES

LOT 48 UTILITY NOTES:

OTHER LITILITIES - NO EXTENSIONS REQUIRED.

WATER — EXTEND WATER SERVICE LINE TO NEW LOCATION. TERMINATE LINE WITH $E^* + F$. T. BOARD, POWATE WATER SERVICE ON DISTORER SIDE OF EXISTING METER SIX TO SE OWNED AND HANGANGED BY THE CONNEX.

Sewer – Move sewer meterbox, check valve and shut off valve to new location at end of pavement.

OTHER UTILITIES - POWER CATA & TELEPHONE CONDUITS TO THE NEW COMMON LINE BETWEEN THE FARCELS. START CONDUITS WITH SWEEPS AND TERRIBATE ALL CONDUITS UNDERGROUND WITH Z'WE' P.T. BOARD AT OND OF PAVEMENT, INSTALL PULL, GOPES.

WATER — EXTEND WATER SERVICE LINE TO NEW LOCATION. TERMINATE LINE WITH $E\times e^+$ F . BOARD, PRIVATE MATER SERVICE ON CUSTOMER SIDE OF EXISTING METER BOX TO BE OWNED AND MAINTAINED BY THE OWNER.

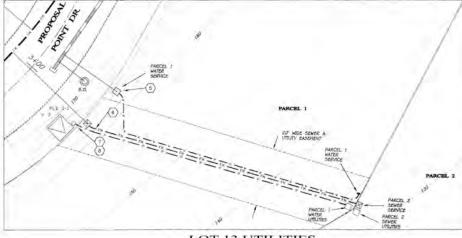
PARCEL 1 UTILITIES

PARCEL & UTILITIES

WATER - NO CHANGES NEEDED, WATER SERVICE LOCATED AT NORTH END OF PROPERTY NEAR THALASSA DRIVE ACCESS.

SEWER — MOVE SEWER METERBOX, CHECK VALVE AND SHUT OFF VALVE TO MEW LOCATION ON COMMON LINE FOR PARCEL 1 & 2.

OTHER UTILITIES — POWER, CATV & TELEPHONE CONDUITS TO THE NEW COMMON LINE SETWESH THE PARCELS, START GONDUITS WITH SWEEPS AND TEMPORATE ALL CONDUITS UNDERGROUND WITH $\mathbb{Z}^* \times \mathbb{P}$, T. BOARD, RISTALL PULL, ROPES,



LOT 13 UTILITIES

UTILITY NOTE:

ALL UTILITY CONDUITS SHOULD BE CONSOLIDATED 19TO ONE TREMCH IF POSSIBLE. SEE DETAIL 3/4 FOR SPACING REQUIREMENTS.

- LOT 48 (1) EXTEND WATER SERVICE TUBING TO PARCEL E. L-99', SEE DETAIL 2/4
 - (2) EXTEND WATER SERVICE TURNING TO PARCEL 1, L+100, SEE DETAIL 2/4
 - (3) EXTEND 2" PVC SENER SERVICE TO PARCEL I, L=60". RELOCATE GATE VALVE, CHECK VALVE AND METER BOX TO NEW LOCATION, SEE DETAIL 1/4
 - (4) INSTALL UTENTY CONDUITS FOR PARCEL 1, L=80; 3" SCH 40 PVC FOR SECONDARY POWER, 2" SCH 40 PVC FOR OATY.
- LOT 19 (5) EXTEND WATER SERVICE TUBING TO PARCEL 1, L=100", SEE DETAIL 274
 - (1) EXTEND 2" PIC SEMER SERVICE TO PARCEL 2. L=95'; RELOCATE GATE VALVE, CHECK VALVE AND METER BOX TO NEW LOCATION, SEE SETAL 1/4
 - THISTALL UTILITY CONDUCTS FOR PARCEL 1. L+110', 3'* SON 40 PYC FOR DECONDARY POWER, 2"* SON 40 PYC FOR TELEPHONE, 2"* SON 40 PYC FOR CATY.
 - INSTALL UTILITY CONDUITS FOR PARCEL Z 1-110", S'+ SCH 40 PVC FOR SECONDARY POWER, S'+ SCH 40 PVC FOR CATV.

LEGEND

EXISTING WATERMAN

FT EXISTING WATER DERVICE MA EXISTING WATER BLOW OFF

-82 EXISTING SEWER SERVICE

D EXISTING POWER UTILITY VALLET

EXISTING POWER PEDESTAL - - WATER SERVICE EXTENSION, W/ 2"F P.T. MARKER BOARD

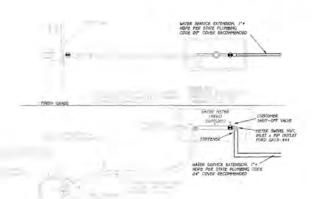
- SEWER SERVICE EXTENSION

- UTILITY CONDUITS EXTENSION, INCLUDING 3" SECONDARY POWER.
F. TELEPHONE, S. CATV, W. E.A. P.T. MARKER BOARD existing contours

PROPOSED GRADING CONTOURS

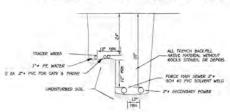
RIGHT-OF-WAY

PRESSURE SEWER SERVICE DETAIL NOT TO SCALE



NOTE

- 1. BED ALL CONDUSTS WITH CLEAN NATIVE SAND OF \$ (-) CRUSHED ROCK.
- 2 POWER TELEPHONE & CATY COMPUTS SHALL HAVE & PULL HOHES
- 3. MARK ALL TERMINATION POINTS OF CONDUCTS AND SERVICES WITH 2/4 P.T. BOARD.



WATER SERVICE DETAIL NOT TO SCALE







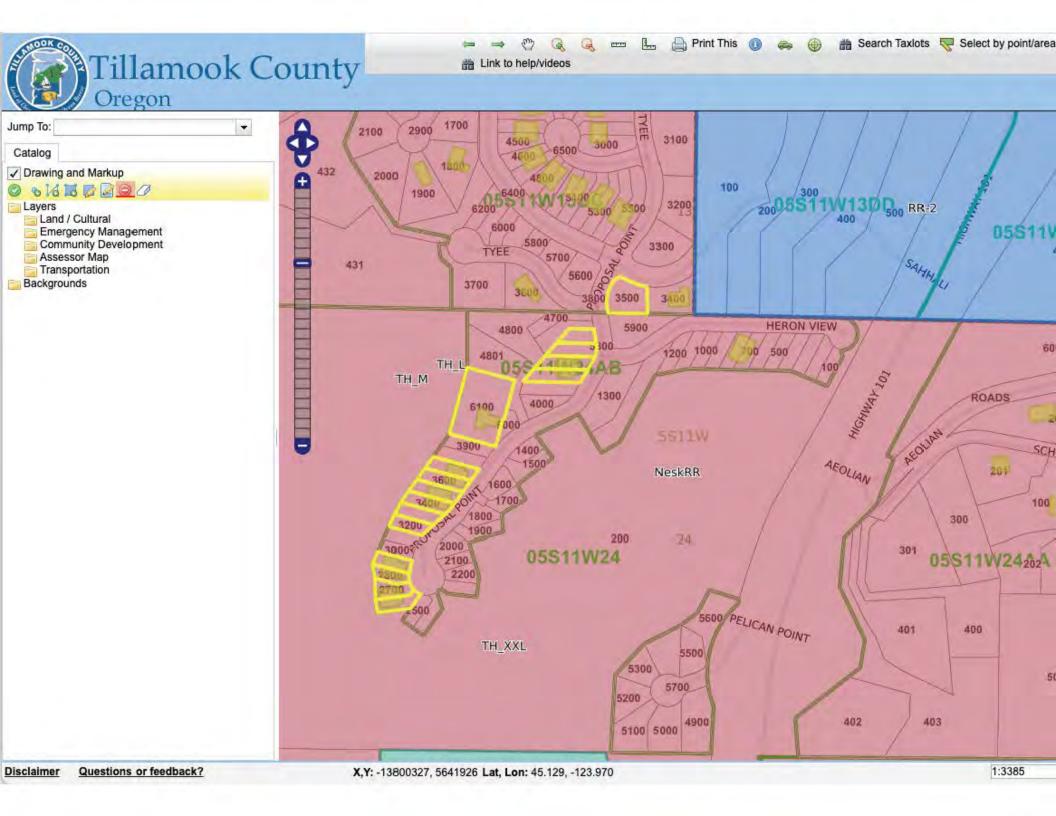


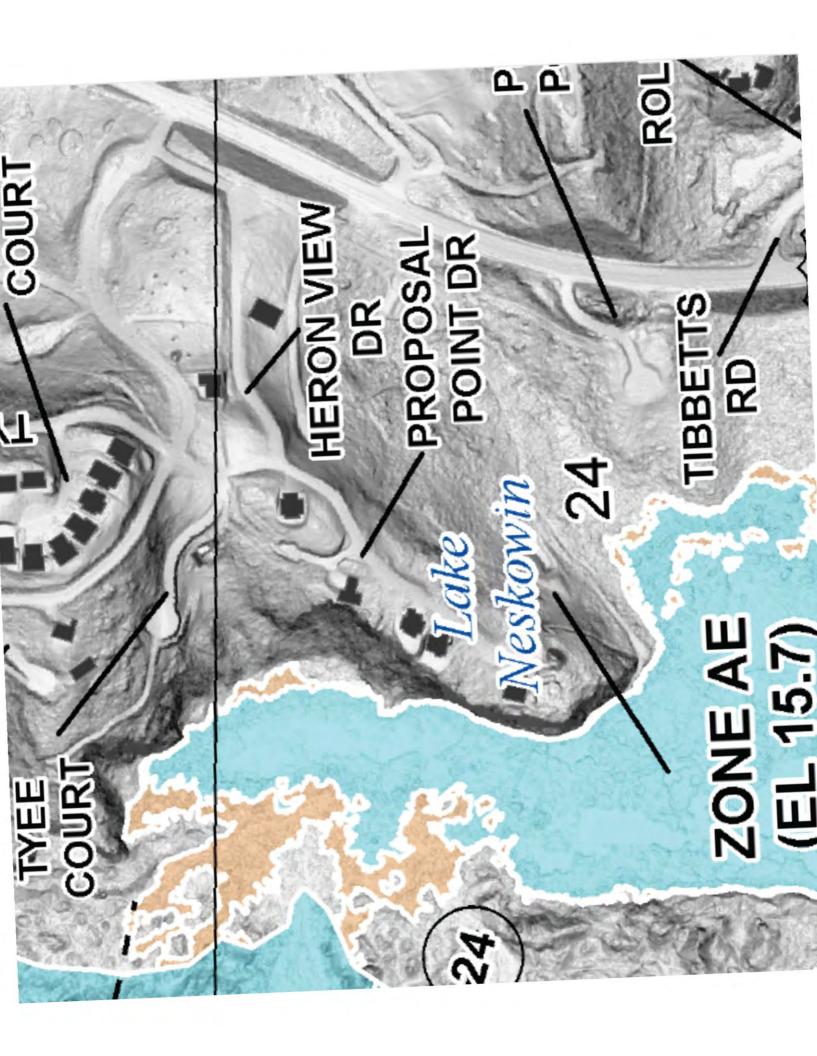


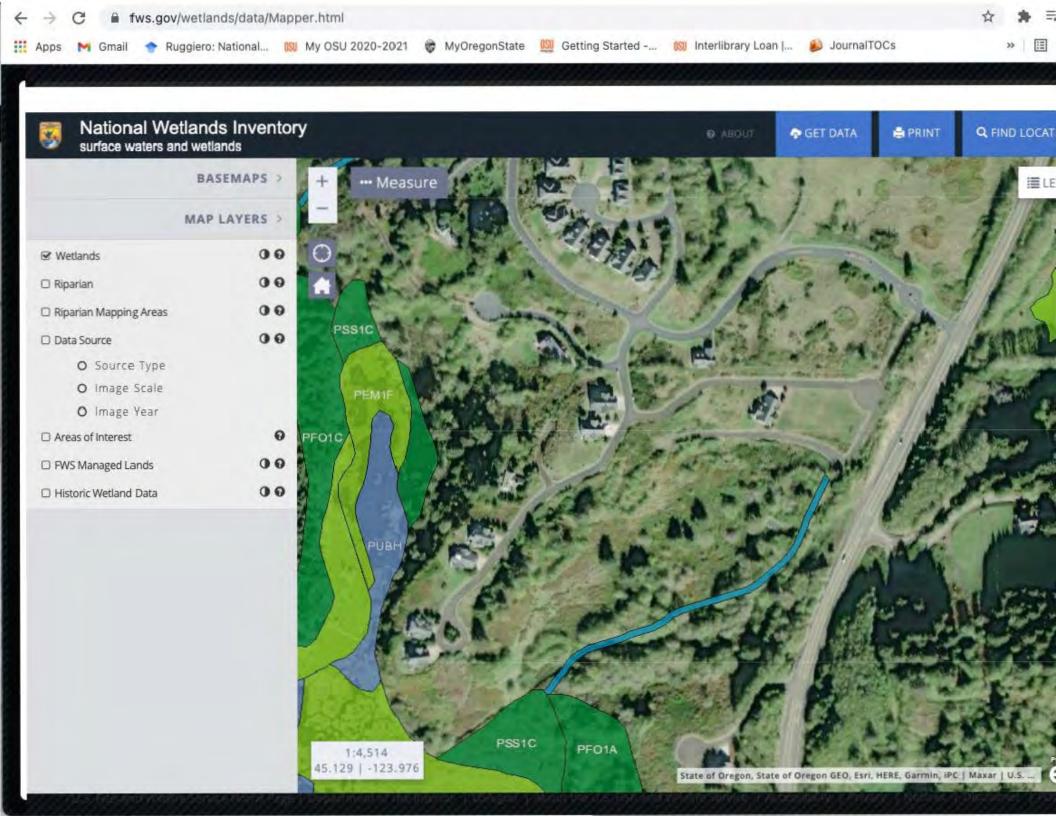
SAHHALI SOUTH CONSTUCTION PLAN UTILLTIES & DETAILS

SHEET

or 4







APPLICANTS ADDITIONAL SUBMITTAL INFORMATION



SAHHALI SOUTH PLANNED DEVELOPMENT

Replat Amendment Application

Application Narrative Findings of Fact

March 28, 2022

Prepared By:

Plan Development, LLC

For Declarant: Richard Boyles. Record Owner: Sahhali South, LLC.

TABLE OF CONTENTS	Page
Contractor Contact Information	2
Applicable Criteria Addressed in this Application	
List of Record Decision Documents	3
List of New Documents	3
List of Zoning Ordinance, Land Division Ordinance, and Comprehensive Plan Criteria	4
Application Requests: Amendment to the Sahhali South Master Plan	
Statement of Intent: Application Goals 1 - 6	5
Goal 1 Figure 1. Replat Property Line Adjustment Lots 14-19.	6
Goal 2 Figure 2. Replat Property Line Adjustment Lots 46, 47, 48	7-9
Goal 3 Figure 3. Tract A Partition to create Lot A-1 and Lot A-2.	10
Goal 4 Figure 4. Replat Partition to create Lots 13a, 13b, Open Space Tract A.	11
Goal 5 Master Plan and CCR Section 10.13 Amendment Language: Setbacks.	12
Goal 6 Master Plan Amendment Language: Detached Single Family Dwellings.	13
Master Plan Amendment	15-19
Master Plan Update with a Narrative Detailing the 2005, 2007, and 2021 Decisions	
And providing a Summary Statement of Consistency with Applicable Criteria	
Statement of Consistency with Applicable Criteria	20-32
Citation of Application Criteria Addressed by the Request	33-63

Declarant: Richard Boyles, Sahhali South LLC.

Contractor Information:

Goal	Contractor	Roles in each Goal:
1-6	<u>Planner</u> :	Application Preparation; Findings of Fact
1-6	Civil Engineer:	Tentative Plan Design, Hazard Analysis.
1-6	Geologist (CEG):	Hazard Analysis. Plan Review.
1-5	Surveyor:	Plats. Legal Descriptions. Monuments.

<u>Project Planner</u>: Plan Development, LLC.

Cell Phone: (503) 440-3015. Plandevelopmentllc@gmail.com.

<u>Planner</u>: Project Goals 1-9:

Application Preparation and Submittal Coordination. Author, Findings of Fact and Statement of

Consistency with Applicable Criteria.

<u>Civil Engineer</u>: Jason Morgan, PE, Morgan Civil Engineering, Inc.

Cell Phone: (503) 801-6016. Jason@morgancivil.com.

PO Box 358. Manzanita, OR 97130.

Application Goals 1 - 6.

Replat Design. Hazard Analysis.

Certified Engineering Geologist: R. Warren Krager, CEG.

Cell Phone: (360) 903-4861. warrrenkrager@gmail.com.

Application Goals 1 - 6.

Hazard Analysis Hazard Analysis of proposed design, setbacks, and land uses. Plan Review.

<u>Professional Land Surveyor</u>: Jack L. White, III.

Cell Phone: (503) 683-7872. jack.white@sflands.com.

Application Goals 1 - 5.

Preliminary Plat. Final Plat. Legal Descriptions. Monuments.

Community Septic Manager: John L. Smits, REHS. Smits & Associates, Inc.

Cell Phone: (541) 537-0392. 990 Newport Avenue. Imbler, OR 97841-9706.

john.smits.associates@gmail.com

Applicable Criteria Addressed in this Application:

Record Decision Documents:

Tillamook County Planning Commission Decisions

- Conditional Use 05-03 for 56-Lot Sahhali South Planned Development Subdivision 05-13
- Conditional Use 07-13 to Amend Sahhali South to allow Partition of Lot 13 and Lot 48.
- Partition 2009-04 to Partition Lot 13 into Lots 13a and 13b. Survey Record P-937.
- Partition 2009-05 to Partition Lot 48 into Lots 48a and 48b. Survey Record P-936.

Record Decision Documents:

- Geologic Assessment Report. February 9, 2005. GH 05-11.
- Construction As-Builts. (2007) Lots 1 56.
- Construction Plans. (2008) Lots 13a, 13b, 48a, 48b.
- Wetland Delineation Report. DSL Concurrence.
- Certification of Water Capacity to Serve Development.
- Community Septic System Permit to Serve the Development #102860. Drain Fields on 5S 10W 19B Tax Lots 800 and 801.

Tillamook County Survey Records

- Survey Record C-552. Sahhali South Lots 1 56. PUD 05-13, CU 05-03, GH 05-11.
- Partition Record P-936. Partition 2009-04. Replat Sahhali South Lot 13 to 13a and 13b.
- Partition Record P-937. Partition 2009-05. Replat Sahhali South Lot 48 to 48a and 48b.

Tillamook County Assessor Records

- County Assessor Map 5S 11W 24AB
- Tax Lots 5000, 1300, 1301, 1400, 1500, 1600, 1700, 1800, 1900, 4600, 4700, 4800, 4801.
- Amend Sahhali South CCRs Recorded February 15, 2007. Instrument 2007-001308.

Agency Regulatory Documents:

- National Wetland Inventory Map. No Wetlands within subject Lot Boundaries.
- 2018 FEMA Flood Insurance Rate Map. No Flood Zone within subject Lot Boundaries.

New Documents:

• Application Narrative: Six Application Goals to Amend Sahhali South PD.

Goals 1-4 Replat and Partitions: Civil Engineer Designs.

Goal 5 Consistent Setbacks: Master Plan and CCRs Amendment Text.

Goal 6 Attached Dwellings: Master Plan Amendment Text.
 Proposed Findings of Fact: Consistency with Applicable Criteria.

- Documents Planned as Condition of Tentative Plan Approval:
 * Hazard Analysis Report supporting the replat request.
- * Replat Survey by Licensed Professional Surveyor.

Findings of Fact Address Consistency with:

Tillamook County Zoning Ordinance

Section 3.320 Neskowin RR Zone

Section 3.520 Planned Development

Section 4.130 Development Requirements for Geologic Hazard Analysis

Article 6 **Conditional Uses**

Development Approval Procedures Article 10

Tillamook County Land Division Ordinance

Section 030: General Provisions.

Section 040: Preliminary Plat Approval Process.

Section 060: Preliminary Plat Submission Requirements.

Section 070: Preliminary Plat Approval Criteria. Section 120: Re-Platting and Vacation of Plats.

Section 130: Property Line Adjustments. Section 140: Improvement Procedures.

Section 150: Development Standards for Land Divisions.

Tillamook County Comprehensive Plan

Goal 1 The Planning Process

Goal 2 The Land Use Plan

Goal 5 Natural Resources

Goal 6 Air, Water & Land Resources Quality

Goal 7 Natural Hazards

Goal 8 Recreation

Goal 9 Population and Economy

Goal 10 Housing

Goal 11 Public Facilities

Goal 12 Transportation

Goal 13 Energy Conservation

STATEMENT OF INTENT

On behalf of the Declarant, Richard Boyles, Sabrina Pearson, Consultant for Plan Development, LLC, prepared an Application to Replat and Amend to the Sahhali South Planned Development Subdivision. This request involves 13 vacant lots controlled entirely by the Declarant.

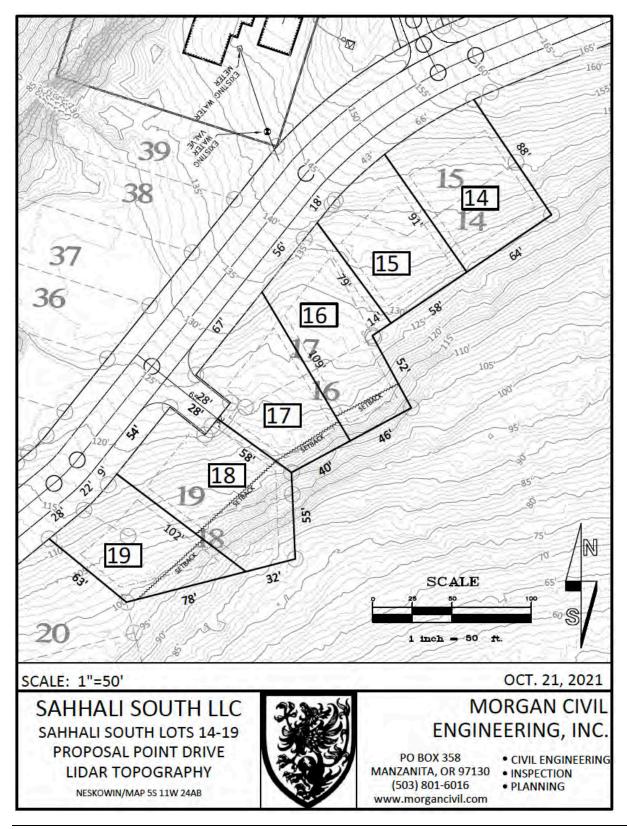
The Declarant received initial approval for the Sahhali South Planned Development on July 28, 2005, with three Planning Commission Decisions: (1) CUP 2005-03 Approving a Conditional Use Application; (2) GH 2005-11 Approving a Geologic Hazard Report, dated February 9, 2005, and (3) PD 05-13 Approving the 56-Lot Sahhali South Planned Development Subdivision.

On December 13, 2007, in Decision 07-13, the Planning Commission Approved an Amendment to Sahhali South Planned Development Subdivision Master Plan to add two lots through the Partition of Lot 13 into Lots 13a and 13b, and Lot 48 into Lots 48a and 48b.

Adopt as an Addendum these Six (6) Application Goals to support development of 13 Lots and add one (1) net additional lot. A Hazard Analysis and Preliminary Plat are provided*.

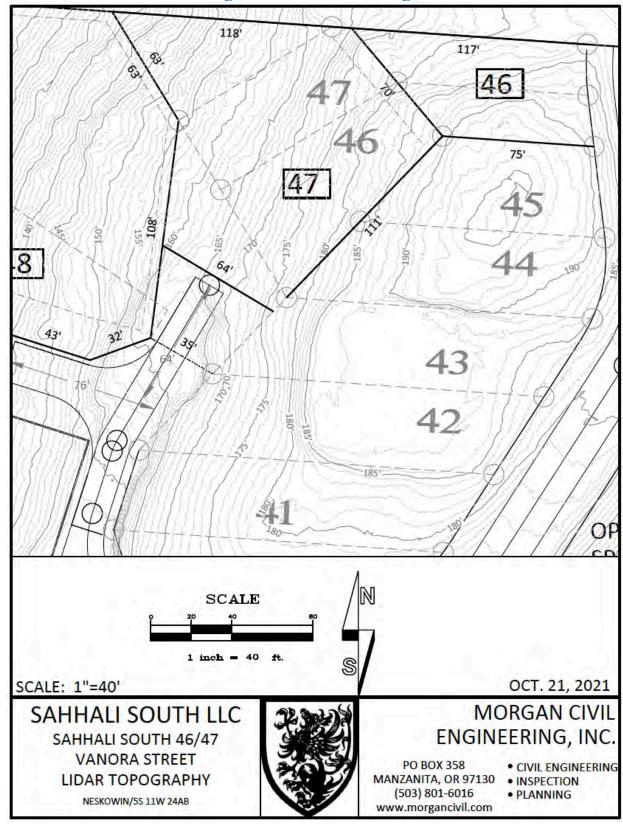
- 1. <u>A Property Line Adjustment: Replat of Lots 14-19</u> (6 lots) into regular shapes oriented toward Proposal Point Drive to enhance design options consistent with the Sahhali South design aesthetic. Existing narrow lots add undesirable design complexities.
- A Property Line Adjustment: Replat (4) of Lots: 46, 47, 48a 48b, to (3) Lots: 46, 47, 48 to: Recreate Lot 46 as the east portion of Lots 46, 47 with Proposal Point Drive access. Recreate Lot 47 as the west portion of Lots 46, 47 with Venora Street access. Combine Lot 48a and 48b with Venora Street access Maintain Venora Street Access density.
- **3.** Partition Tract A: Open Space into (2) Lots to create two development lots with Ocean View potential. Open Space will be replaced in Goal 4 Lot 13a-13b the Replat Request.
- **4.** Replat Partition Lots 13a and 13b into two (2) Lots and (1) Open Space Tract A: to provide suitable building lots and to protect steep slopes from private development.
- 5. <u>Consistent Setbacks</u>: <u>Master Plan and CCR Section 10.13 Amendment Language</u> to provide for consistent setback requirements throughout the development: "For attached two-unit single family dwellings, interior side yard setbacks shall be 10 feet one side and zero feet on the shared lot line. For detached single family dwellings, interior side yard setbacks shall be 5 feet. Street side yard setbacks shall be 15 feet, front yard setbacks shall be 20 feet, and rear yard setbacks shall be 10 feet. Setbacks shall be increased where recommended by a qualified hazard analysis professional. The Architectural Review Board may approve a proposal that does not comply with these setback requirements pursuant to CCR Section 11 Architectural Review Board."
- 6. <u>Allowed Land Uses</u>: <u>Master Plan Amendment Language</u>:
 Consistent with the recorded Sahhali South CCRs: "Pursuant to CCR Section 11
 Architectural Review Board, each lot shall be eligible for placement of one attached or detached single family dwelling and a private garage or carport where consistent with Applicable Criteria and the Sahhali South Planned Development decisions."

APPLICATION GOAL 1: Figure 1. See Also Figures 4a and 4b.

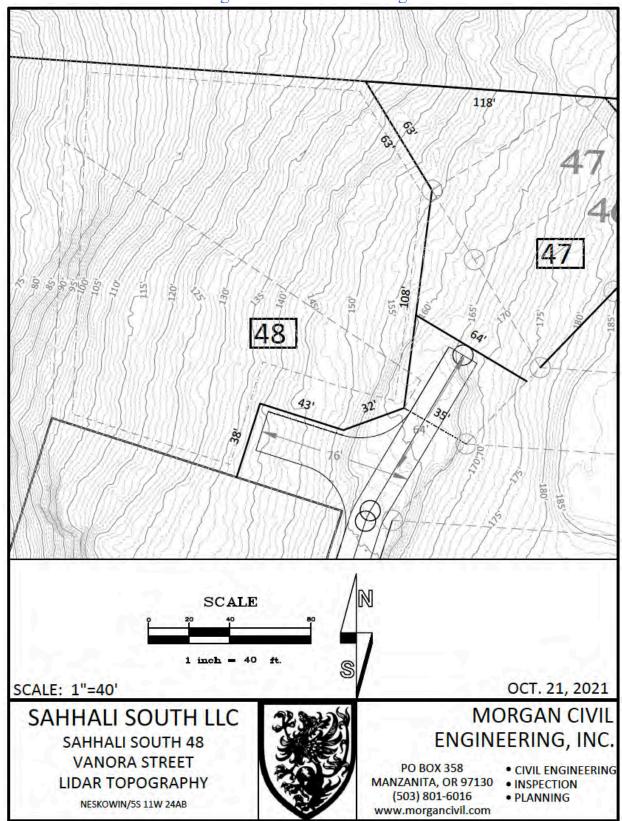


Declarant: Richard Boyles, Sahhali South LLC.

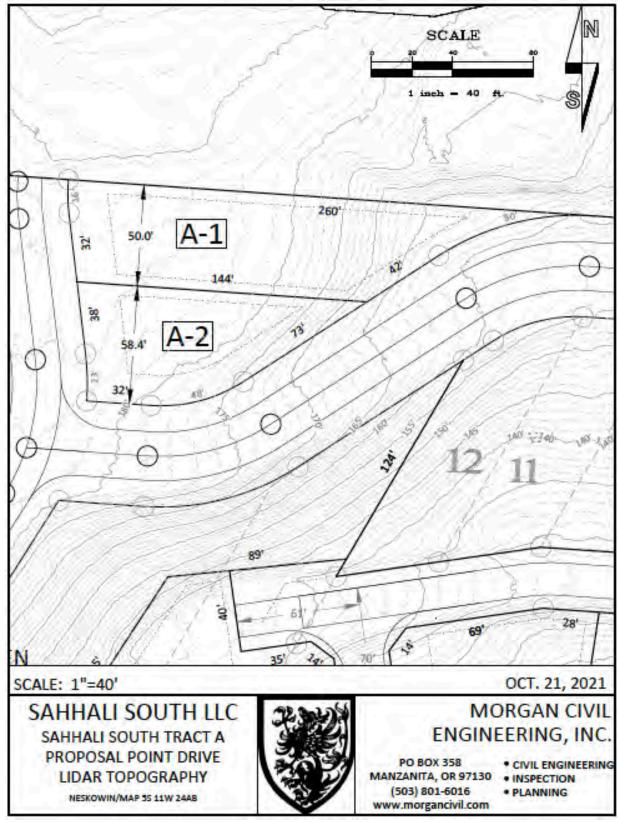
APPLICATION GOAL 2: Figure 1 of 2. See Also Figures 4a and 4b.



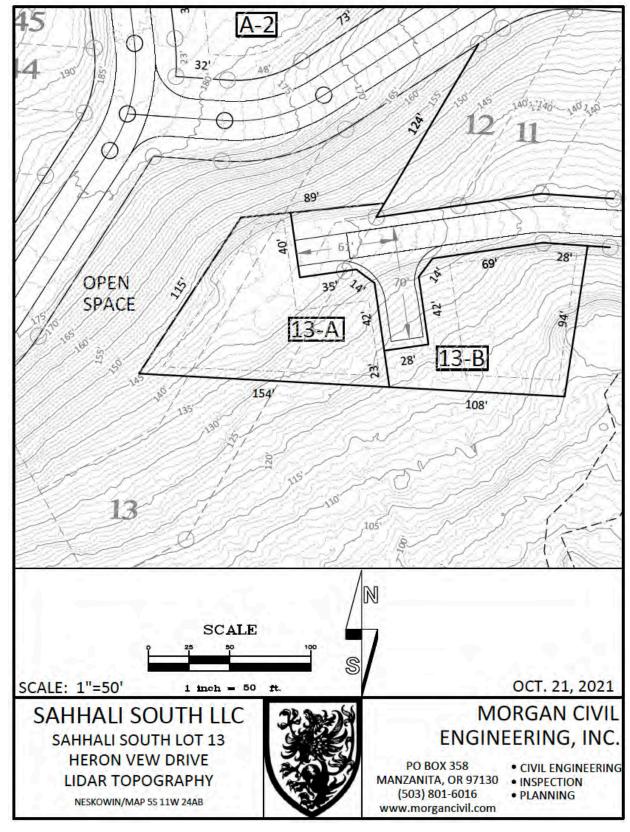
APPLICATION GOAL 2: Figure 1 of 2. See Also Figures 4a and 4b.



APPLICATION GOAL 3: Figure 3. See Also Figures 4a and 4b.



APPLICATION GOAL 4: Figure 4. See Also Figures 4a and 4b.



Declarant: Richard Boyles, Sahhali South LLC.

APPLICATION GOAL 5: CONSISTENT SETBACKS

Narrative Explanation

Amend Recorded CCRs and adopt a Master Plan Addendum (2) to support consistent setbacks. Currently, net side yard setbacks for attached dwellings are 10 feet of the lot width, while net side yard setbacks for detached dwellings are 30 feet of the lot width. Amendment is proposed to add Addendum Language to the Sahhali South Master Plan and to replace CCR Section 10.13.

Recorded CCRs with Addendums, August 2, 2011, Section 10.13 states that:

"Except for attached living units permitted under Section 10.3.1., no building or fencing shall be located closer than 15 feet to an interior lot line. Except for attached living units permitted under Section 10.3.1, eaves, steps, open porches, and balconies shall not be permitted to extend closer than 10 feet to an interior lot line. The Architectural Review Board map approve a proposal that does not comply with these requirements pursuant to CCR Section 11."

Sahhali South Master Plan, approved July 28, 2005, states:

"For attached structures, side yard setbacks would be 10 feet one side and zero feet on the shared lot line."

Proposed Amendments

Proposed Sahhali South Master Plan Addendum (5 of 6):

"For attached two-unit single family dwellings, interior side yard setbacks shall be 10 feet one side and zero feet on the shared lot line. For detached single family dwellings, interior side yard setbacks shall be 5 feet. Street side yard setbacks shall be 15 feet, front yard setbacks shall be 20 feet, and rear yard setbacks shall be 10 feet. Setbacks shall be increased where recommended by a qualified hazard analysis professional. The Architectural Review Board may approve a proposal that does not comply with these setback requirements pursuant to CCR Section 11 Architectural Review Board."

Proposed Amendment to Recorded CCR Section 10.13:

Replace Section 10.13 language cited above with the following:

"For attached two-unit single family dwellings, interior side yard setbacks shall be 10 feet one side and zero feet on the shared lot line. For detached single family dwellings, interior side yard setbacks shall be 5 feet. Street side yard setbacks shall be 15 feet, front yard setbacks shall be 20 feet, and rear yard setbacks shall be 10 feet. Setbacks shall be increased where recommended by a qualified hazard analysis professional. The Architectural Review Board may approve a proposal that does not comply with these setback requirements pursuant to CCR Section 11 Architectural Review Board."

APPLICATION GOAL 6: CLARIFY ALLOWED LAND USES

Narrative Explanation

Adopt a Sahhali Master Plan Addendum (6 of 6) to bring consistency between the Sahhali South Master Plan and the recorded CCRs.

Recorded CCRs with Addendums, August 2, 2011, Section 10.3.1 states that:

"No building shall be erected, altered, placed, or permitted to remain on a Lot other than one attached or detached single family dwelling and a private garage or carport and except as are made more restrictive by these covenants, shall be maintained in full compliance with the zoning restrictions of Tillamook County."

Proposed Amendment

Proposed Master Plan Amendment:

Consistent with the recorded Sahhali South CCRs: "Pursuant to CCR Section 11 Architectural Review Board, each lot shall be eligible for placement of one attached or detached single family dwelling and a private garage or carport where consistent with Applicable Criteria and the Sahhali South Planned Development decisions."

Sahhali South Planned Development Master Plan Amendment: December 16, 2021

To integrate the (2005) approval, the (2007) Amendment, and this (2021) Amendment.

Property Location:

Sahhali South is a 73-acre site located on the west side of US Highway 101 approximately 1.5 miles north of the incorporated community of Neskowin in Tillamook County, Oregon. According to the approved Sahhali South Planned Development Subdivision Master Plan (2005) of the 73-acre site, 59.6 acres are dedicated in Open Space a portion of which is buildable and a portion of which is wetlands and required 50-foot riparian setback from the wetland boundary shown on the as-builts (2005). Thus, the Master Plan applied for a density of development of 1.92 dwelling units per net buildable acre, including net buildable open space and area devoted within lots, subdivision area and density calculations are presented in Exhibit 2.3 (circa 2005). To determine the amount of net buildable land included within open space and lots, we divide 56 lots by the density of 1.92 dwelling units per acre, identifying that 29.16 acres are devoted to residential development including the net buildable portion of dedicated open space.

Property Description:

Sahhali South is characterized by three distinct features: a gently sloping long ridge that runs generally northeast to southeast through the center of the property, a significant marsh with wetlands that surrounds the base of the ridge to the west, south and southeast; and sand dunes and beach area between the development and the Pacific Ocean to the west.

The Sahhali South Planned Development:

The Neskowin Rural Residential (Nesk RR), allows a Planned Development as a Conditional Use. As a Planned Development, lot sizes and setbacks are established by and to accomplish the goals of the Planned Development, to preserve geographic features as Open Space. Density and land uses must be consistent with those allowed in the underlying zone. The Neskowin RR Zone requires 20,000 square feet per dwelling unit. We calculate the allowed Neskowin RR Zone density by dividing one acre, 43,560 square feet, by 20,000 square feet. This calculation identifies that the Neskowin RR Zone allows 2.18 dwelling units per buildable acre, allows detached single-family dwellings, as a use permitted outright, and allows two-unit dwellings as a Conditional Use. Sahhali South is within the allowed density, and provides for outright allowed detached single-family dwellings, and attached two-unit dwellings with an approved Conditional Use Permit.

Sahhali South Administration

Sahhali South Planned Development Subdivision is dedicated with recorded Conditions, Covenants, and Restrictions (CCRs). These provide the Declarant, Richard Boyles, the sole right to apply to Amend Sahhali South Planned Development. In 2007, the Declarant applied to

Tillamook County Department of Community Development to Amend to the 2005 Planned Development. The Declarant makes this application for amendments that respond to knowledge about the land gained through years of professional evaluations and experience.

2005 Sahhali South Master Plan Initial Approval

In 2005, on July 28, the Tillamook County Planning Commission approved Sahhali South as a 56-Lot Planned Development Subdivision with three applications PC-05-13 Planned Development, Conditional Use Permit CU-05-03, and Geologic Hazard Report GH-05-11.

Lots are distributed between two distinct areas, and three distinct lot types. Lots 1-48 are in Area 1. Lots 49-56 are in Area 2. Area 1 Lots 1-12 and 14-47 have an average lot area of 5,180 square feet, 0.12 acres, and are initially planned for two-unit attached single family townhomes. Area 2 Lots 49-56 have an average lot area of 0.25 acres and are planned for detached single family dwellings. Lot 13 and Lot 48 are each approximately 1 acre each and are planned for detached single family dwellings. The 2005 density is 1.92 dwelling units per acre, including net buildable open space and lot area, 88% of the Neskowin RR Zone maximum allowed density of 2.18 dwelling units per acre.

2007 Amendment to Sahhali South Planned Development

In 2007, on December 13, the Tillamook County Planning Commission approved two Partitions. Partition of Lot 13, into Lots 13a and 13b, and Lot 48, into Lots 48a and 48b. Each Parcel was allowed a detached single-family dwelling. This addition of net two development lots increased the number of lots to 58 lots in 29.16 net buildable acres and increased the density to 1.99 dwelling units per acre, including net buildable open space and dedicated lot area, 91% of the Neskowin RR Zone maximum allowed density of 2.18 dwelling units per acre.

2021 Amendment to Sahhali South Planned Development

In 2021, a Replat proposes to consolidate the 2005, 2007, and 2021 Sahhali South Amendments into one updated Sahhali South Plat. The resulting density will be a net addition of one dwelling to 59 lots in 29.16 net buildable acres, 2.02 dwelling units per acre, 93% of the maximum allowed density of 2.18 dwelling units per acre.

The 2021 Amendment Six (6) Application Goals:

- 1. <u>A Property Line Adjustment: Replat of Lots 14-19</u> (6 lots) into regular shapes oriented toward Proposal Point Drive to enhance design options consistent with the Sahhali South design aesthetic. Existing narrow lots add undesirable design complexities.
- A Property Line Adjustment: Replat (4) of Lots: 46, 47, 48a 48b, to (3) Lots: 46, 47, 48 to: Recreate Lot 46 as the east portion of Lots 46, 47 with Proposal Point Drive access. Recreate Lot 47 as the west portion of Lots 46, 47 with Venora Street access. Combine Lot 48a and 48b with Venora Street access Maintain Venora Street Access density.

- **3.** Partition Tract A: Open Space into (2) Lots to create two development lots with Ocean View potential. Open Space will be replaced in Goal 4 Lot 13a-13b the Replat Request.
- **4.** Replat Partition Lots 13a and 13b into two (2) Lots and (1) Open Space Tract A: to provide suitable building lots and to protect steep slopes from private development.
- 5. <u>Consistent Setbacks</u>: Amend Master Plan and CCR Section 10.13 Setbacks: to provide for consistent setback requirements throughout the development: To read: "For attached two-unit single family dwellings, interior side yard setbacks shall be 10 feet one side and zero feet on the shared lot line. For detached single family dwellings, interior side yard setbacks shall be 5 feet. Street side yard setbacks shall be 15 feet, front yard setbacks shall be 20 feet, and rear yard setbacks shall be 10 feet. Setbacks shall be increased where recommended by a qualified hazard analysis professional. The Architectural Review Board may approve a proposal that does not comply with these setback requirements pursuant to CCR Section 11 Architectural Review Board."
- 6. <u>Allowed Land Uses</u>: <u>Amend Master Plan Amendment Language</u>
 Amend Master Plan consistent with the recorded Sahhali South CCRs Section 10.3.1: to read: "Pursuant to CCR Section 10.3.1 Structures on Lots, each lot shall be eligible for placement of one attached or detached single family dwelling and a private garage or carport where consistent with Applicable Criteria and the Sahhali South Planned Development decision documents."

Geologic Hazards

In 2005, in Planning Commission Decision GH 05-11, Tillamook County approved Sahhali South Geologic Hazard Report dated February 9, 2005, as suitable to meet the requirements of Section 4.130 Development Requirements for Hazard Analysis. Geologic Hazard Report GH 05-11 recommends development specific Geologic Reports for Oceanfront Lots 28-39, 48A and 48B, and 51-52, and for lots with slopes greater than 19% as a condition of development. In addition, the Tillamook County Department of Community Development may require development specific Geologic Hazard Reports. The 2021 Sahhali South Amendment Application is designed by a Civil Engineer and do not affect the decision for GH 05-11.

Infrastructure Plans

For the 2005 Decisions, Lots 1-56, Infrastructure Construction Plans for the 2005 Decisions, are dated January 2, 2007. For the 2007 Amendment to Sahhali South Planned Development Subdivision Decisions, Lots 13a, 13b, 48a, 48b, Infrastructure Construction Plans, are dated June 11, 2008. For the 2021 Amendments to Lots A-1, A-2, 13a, 13b, 14-19, 46, 47, and 48, Infrastructure Construction Plans will be provided with the application for Final Plat. Infrastructure improvements to support the 2021 Amendments are anticipated to be limited to stormwater drainage improvements to Thalassa Drive, a Fire Code compliant turnaround at the termination of Thalassa Drive, a water line easement from Heron View Drive to serve Lots 13a and 13b, and a Fire Code compliant turnaround at the termination of Vanora Street and easements necessary to provide utility extensions and ensure facility maintenance.

Roads

Sahhali South (2005) platted two roads that provide access from US Highway 101. Pelican Point Drive provides access to Area 2 Lots 49-56. Heron View Drive provides access to Area 1 Lots 1-49, direct access to Lots 1-13a and 13b, and access to Thalassa Drive and Proposal Point Drive. Thalassa Drive provides rear access to Lots 1-12 and level access to Lots 13a and 13b. Proposal Point provides direct access to Lots 14 – 46 as well as Lot A-1 and Lot A-2 with this application, and access to Venora Street. Venora Street provides direct access to Tax Lot 6100, Lot 47 (with this application) and Lot 48(combining Lot 48a and 48b with this application). The 2021 Amendment transfers Vanora Street from an easement to a Tract for improved collaborative management and plats a Fire Code compliant turnaround at the termination of Vanora Street and Thalassa Drive.

Sanitary Service

A Community Septic System provides sanitation for the area under Department of Environmental Quality (DEQ) Water Pollution Control Facilities Permit #102860. Drain fields are located at 5S 10W 19B Lots 800 and 801, Lat: 45.1281, Long: -123.9706. Permit #102860 received its most recent update on 8/10/2015, though the permit is the outcome response of the Land Use Compatibility signed by Tillamook County on 10/3/2005 and Application #963452 received on 9/12/2011. The updated permit update limits use to flow calculations rather than specifying a limit to the number of lots. According to the consultant working with the project, the system has adequate capacity to serve the requested development increase to 59 lots.

Water

Neskowin Regional Water District provides water. The Neskowin Regional Water Service identifies that water service is available to serve Sahhali South including the 2021 replat. The Neskowin Regional Water District will review the final plat construction plans prior to their approval.

Fire Protection

The Neskowin Rural Fire Protection District provides fire protection services. The Fire Chief finds that the design of Sahhali South including the 2021 replat application is consistent with Fire Code with the plat of a Fire Code compliant turnaround at the termination of Vanora Street and Thalassa Drive. The Fire Chief will review the final plat and construction plans prior to their approval.

Cable

Charter Communications provides cable and internet service to the site. Charter communications finds that the design of Sahhali South including the 2021 replat meets applicable codes. Charter will review the final plat and construction plans prior to their approval.

Power

The Tillamook (PUD) provides electrical power to the site. PUD finds that the design of Sahhali South including the 2021 replat meets the applicable electrical codes. A utility easement may be required to access Lots 13a and 13b and will be provided as required with the application for Final Plat. PUD will review the final plat and construction plans prior to their approval.

Telephone

Telephone lines are owned by Sprint. Sprint finds that the design of Sahhali South including the 2021 replat meets the applicable communication codes. A utility easement may be required to access Lots 13a and 13b and will be provided as required with the application for Final Plat. Sprint will review the final plat and construction plans prior to their approval.

Public Schools

Nestucca School District, Cloverdale Elementary and Nestucca High provide school service to Sahhali South. No significant change to density is proposed.

Table 1. Lot Areas, Setbacks and Allowed Uses:

Lot #	Acres	Sq. Ft.	Uses	Frt. Yd	Rear Yd	Side Att./Det.	St. Side
A-1	0.21	9285	Attached/Detached	20	10	0', 10' / 5'	15
A-2	0.13	5745	Attached/Detached	20	10	0', 10' / 5'	
1	0.11	4632	Attached/Detached	20	10	0', 10' / 5'	15
2	0.12	5365	Attached/Detached	20	10	0', 10' / 5'	
3	0.13	5470	Attached/Detached	20	10	0', 10' / 5'	
4	0.10	5143	Attached/Detached	20	10	0', 10' / 5'	
5	0.10	5143	Attached/Detached	20	10	0', 10' / 5'	
6	0.10	5143	Attached/Detached	20	10	0', 10' / 5'	
7	0.10	5143	Attached/Detached	20	10	0', 10' / 5'	
8	0.10	5143	Attached/Detached	20	10	0', 10' / 5'	
9	0.10	5143	Attached/Detached	20	10	0', 10' / 5'	
10	0.10	5143	Attached/Detached	20	10	0', 10' / 5'	
11	0.12	5383	Attached/Detached	20	10	0', 10' / 5'	
12	0.13	5525	Attached/Detached	20	10	0', 10' / 5'	
13a	0.28	9729	Detached	20	10	5	
13b	0.24	8140	Detached	20	10	5	
14	0.14	5893	Attached/Detached	20	10	0', 10' / 5'	
15	0.12	5075	Attached/Detached	20	10	0', 10' / 5'	
16	0.14	6183	Attached/Detached	20	GHR	0', 10' / 5'	
17	0.12	5394	Attached/Detached	20	GHR	0', 10' / 5'	
18	0.16	6756	Attached/Detached	20	GHR	0', 10' / 5'	
19	0.11	4784	Attached/Detached	20	GHR	0', 10' / 5'	
20	0.11	4792	Attached/Detached	20	10	0', 10' / 5'	
21	0.09	3920	Attached/Detached	20	10	0', 10' / 5'	
22	0.11	4792	Attached/Detached	20	10	0', 10' / 5'	
23	0.10	4356	Attached/Detached	20	10	0', 10' / 5'	
24	0.11	4792	Attached/Detached	20	10	0', 10' / 5'	
25	0.10	4356	Attached/Detached	20	10	0', 10' / 5'	
26	0.11	4792	Attached/Detached	20	10	0', 10' / 5'	
27	0.12	5227	Attached/Detached	20	10	0', 10' / 5'	
28	0.09	3920	Attached/Detached	20	10	0', 10' / 5'	
29	0.10	4356	Attached/Detached	20	10	0', 10' / 5'	
30	0.09	3920	Attached/Detached	20	10	0', 10' / 5'	
31	0.09	3920	Attached/Detached	20	10	0', 10' / 5'	
32	0.10	4356	Attached/Detached	20	10	0', 10' / 5'	
33	0.12	5227	Attached/Detached	20	10	0', 10' / 5'	
34	0.13	5663	Attached/Detached	20	10	0', 10' / 5'	
35	0.13	5663	Attached/Detached	20	10	0', 10' / 5'	
36	0.13	5663	Attached/Detached	20	10	0', 10' / 5'	

						ı	
37	0.13	5663	Attached/Detached	20	10	0', 10' / 5'	
38	0.13	5663	Attached/Detached	20	10	0', 10' / 5'	
39	0.13	5663	Attached/Detached	20	10	0', 10' / 5'	
40	0.16	6970	Attached/Detached	20	10	0', 10' / 5'	
41	0.15	6534	Attached/Detached	20	10	0', 10' / 5'	
42	0.16	6756	Attached/Detached	20	10	0', 10' / 5'	
43	0.14	5893	Attached/Detached	20	10	0', 10' / 5'	
44	0.13	5745	Attached/Detached	20	10	0', 10' / 5'	
45	0.10	4356	Attached/Detached	20	10	0', 10' / 5'	
46	0.11	4752	Detached	20	10	0', 10' / 5'	15
47	0.37	14077	Detached	20	10	0', 10' / 5'	
48	0.76	33323	Detached	20	10	0', 10' / 5'	
49	0.42	18295	Detached	20	15	15	15
50	0.32	13939	Detached	20	15	15	
51	0.33	14375	Detached	20	15	15	
52	0.25	10890	Detached	20	15	15	
53	0.21	9148	Detached	20	15	15	
54	0.25	10890	Detached	20	15	15	
55	0.22	9583	Detached	20	15	15	
56	0.33	14375	Detached	20	15	15	15

<u>Table 2. 2021 Replat Lot Area Changes to Affected Lots as reflected in Table 1.</u>

Lot	Current Ac	Proposed Ac	Current sf	Proposed sf
Tract A	0.34	0.34	15,030	15,030
A – 1		0.21		9,285
A – 2		0.13		5,739
13a	0.44	0.28	19,166	12,007
13b	0.44	0.24	19,166	10,336
14	0.11	0.14	4,824	5,893
15	0.16	0.12	6,811	5,075
16	0.13	0.14	5,844	6,183
17	0.12	0.12	5,133	5,394
18	0.13	0.16	5,643	6,756
19	0.13	0.11	5,800	4,784
46	0.16	0.11	7,193	4,752
47	0.15	0.37	6,590	16,153
48a	0.65	See 48(a, b)	28,314	See 48(a, b)
48b	0.41	See 48(a, b)	17,860	See 48(a, b)
48(a, b)	1.06	0.76	46,174	33,323

Declarant: Richard Boyles, Sahhali South LLC.

2021 Application to Amend Sahhali South Planned Development Applicant Summary Statement of Consistency with Applicable Criteria

Tillamook County Zoning Ordinance

Section 3.320 Neskowin Rural Residential (RR) Zone

Response: Criteria met. The Neskowin Rural Residential Zone Section 3.320(3) Conditional Uses (a) allows a Planned Development and Section 3.320(3)(b) allows two-family dwellings as a Conditional Use; Section 3.320(2) Outright Permitted (a) Single family dwellings are allowed as an outright permitted use. In a Planned Development, density must be consistent with the underlying zone while dimensional standards are set by the Planned Development. Section 3.320(4)(a) establishes the underlying zone density as 2.18 dwelling units per acre.

Section 3.520 Planned Development.

A Planned Development allows uses at densities consistent with the underlying zone with dimensional standards established through the Planned Development process for the purpose of planning development that preserves natural features and amenities such as and not limited to views, water frontage, wetlands, sloping topography, geologic features, and drainage areas. Land division requests are allowed after review within the context of the approved Planned Development. Building permits can only be issued based on the Approved Planned Development. Any changes to the approved Planned Development require Planning Commission approval.

The 2021 Application to Amend the Planned Development is required to address the Land Division Ordinance and Section 3.520(3) Planned Development Procedure (a): (1) Proposed land uses, building locations, and housing unit densities; (2) Proposed circulation pattern indicating the status of street ownership; (3) Proposed open space uses; (4) Proposed grading and drainage pattern; (5) Economic justification of any commercial development; (6) Relationship of the proposed development to the surrounding area and the comprehensive plan.

<u>Section 3.520(3)(a)</u>:

(1) Proposed land uses, building locations and housing unit densities:

Response: Criteria met. With the addition of one lot, the 2021 Application increases housing unit densities from 1.99 dwelling units per acre to 2.02 dwelling units per acre, 93% of the allowed housing unit density of 2.18 dwelling units per acre. No change to the approved land uses detached and two-unit-attached single-family dwellings is proposed, although the Application clarifies that both attached and detached dwellings are allowed on Lots 1-45, A-1 and A-2, and detached dwellings are allowed on Lots 46 – 56.

(2) Proposed circulation pattern indicating the status of street ownership:

Response: Criteria met. The 2021 Amendment Application proposes to amend the circulation pattern that serves Lots 13a and 13b, 47 and 48. Lots 13a and 13b will be served by Thalassa Drive and include the plat of a turnaround consistent with the applicable 2019 Oregon Fire Code Appendix D. The turnaround will be constructed when either Lot 13a or 13b are developed; until then, a turnaround on Thalassa Drive is not required by the applicable fire code. Lots 47 and 48 will take access from Venora Street which will now include the plat of a turnaround consistent with the applicable 2019 Oregon Fire Code Appendix D; this is not a change to the density of lots using Venora Street, it is a change to the turnaround to meet Appendix D. The Venora Street turnaround will be constructed when either Lot 47 or 48 are developed; until then, a turnaround on Venora Street is not required by the applicable fire code.

(3) Proposed open space use:

Response: Criteria met. The 2021 Amendment Application will not change the use of dedicated Open Space as undeveloped. It does relocate the Tract A: Open Space from nearly level ground to protect the steep slopes formerly located on Lots 13a and 13b. It does relocate open space from lower slope land to more steeply sloped land formerly located on Lots 13a and 13b.

(4) Proposed grading and drainage pattern:

Response: Criteria met. The 2021 Amendment Application utilizes the same drainage pattern with simplified access for Lots 14-19 and 47. Drainage will be provided with the design of Venora Street and Thalassa Drive.

(5) Economic justification of any commercial development:

<u>Response: Criteria met</u>. The 2021 Amendment to Sahhali South does not include any commercial development.

(6) Relationship of the proposed development to the surrounding area and the comprehensive plan.

Response: Criteria met. The 2021 Amendment to Sahhali South does not change the relationship of the proposed development to the surrounding area and the comprehensive plan. Sahhali South is a Planned Development of detached and attached two-unit single-family-dwellings.

<u>North</u> of Sahhali South is Sahhali Shores at Neskowin, a 90 residential lot Planned Development Subdivision that provides for detached and attached two-unit single family dwellings.

<u>South</u> of Sahhali South are wetlands preserved as Sahhali South open space and beach access. <u>East</u> of Sahhali South, is US Highway 101 and vacant and developed parcels in the Neskowin RR Zone and RR-2 Zone.

<u>West</u> of Sahhali South is the Pacific Ocean. Application relationship to and Consistency with the Comprehensive Plan is addressed in the response to Section 6.040(2) The application is consistent with the goals and policies of the Comprehensive Plan.

<u>Section 3.520(3)(b)</u>: During its review, the Planning Commission shall distribute copies of the proposal to the County agencies for study and comment. In considering the plan, the Planning Department shall seek to determine that:

- There are special physical circumstances or objectives of development which the proposal will satisfy to warrant a departure from the standard ordinance requirements. Response: Criteria met. There are special physical circumstances and objectives of development which the proposal will satisfy to warrant a departure from the standard ordinance requirements because: The 73-acre site includes access to the beach along a physically elevated and maintained trail through devoted open space. While 29.16 net buildable acres are used for the density calculations, of this, approximately 10.25 acres, are included within lot areas (exact figures to be provided by the surveyor at final plat). This means that approximately 19 acres that would otherwise be dedicated to private use, are provided for the enjoyment of rare and unusual natural features that are instead made available to all users of the development.
- (2) Resulting development will not be incompatible with the comprehensive plan provisions or zoning objectives of the area.

 Response: Criteria met. Resulting development will not be incompatible with comprehensive plan provisions or zoning objectives of the area because: proposed uses area allowed outright by the Neskowin RR Zone and zoning objectives of the area that require a density of 2.15 dwelling units per acre are met. Specifically, this development, proposes a density of 2.02 dwelling units per acre calculated on 29.16 net buildable acres, 10.25 acres of which will be located within private development lots. The application describes its consistency with applicable Goals 1, 2, 5, 6, 7, 8, 9, 10, 11, 12, and 13.
- (3) The plan can be completed within a reasonable period of time.

 Response: Criteria met. The plan can be completed within a reasonable period of time because: The infrastructure improvements necessary to file the final plat are already constructed. Improvements necessary to serve each lot remain required at the time a building permit is proposed.
- (4) The streets are adequate to support the anticipated traffic and the development will not overload the streets outside the planned area.
 Response: Criteria met. The streets are adequate to support the anticipated traffic and the development will not overload the streets outside the planned area because: the development relies on existing streets. The addition of a single dwelling unit to Sahhali South, from 58 to 59 dwelling units, will not overload the streets outside the planned area. The streets within the development area adequate to serve the anticipated traffic, no new streets are proposed.

- (5) Proposed utility and drainage facilities are adequate for the population densities and type of development proposed.
 <u>Response: Criteria met</u>. Proposed utility and drainage facilities area adequate for the population densities and types of development proposed because ...
- (6) The parcel is suitable for the proposed use, considering the size, shape, location, topography, existence of improvements, and natural features.
 Response: Criteria met. The parcel is suitable for the proposed use, considering the size, shape, location, topography, existence of improvements and natural features because the plan relies on existing constructed infrastructure with its only purpose to re-orient the size, shape, and location of development lots toward its street access to simplify development in terms of topography and access and to support improved ocean and natural area view attainment.
- (7) The proposed use will not alter the character of the surrounding area in a manner which substantially limits, impairs, or prevents the use of surrounding properties for the permitted uses listed in the underlying zone.

 Response: Criteria met. The proposed use will not alter the character of the surrounding area in a manner which substantially limits, impairs, or prevents the use of surrounding properties for the permitted uses listed in the underlying zone because the proposed use is intended and proposed for the exclusive use of permitted uses listed in the underlying zone, single family dwellings.
- (8) The proposed use is timely, considering the adequacy of public facilities and services existing or planned for the area affected by the use.
 Response: Criteria met. The proposed use is timely, considering the adequacy of public facilities and services existing or planned for the area affected by the use because the proposed use relies on existing public facilities and services existing in the area, specifically cited by both water and wastewater facility operators as adequate to serve the use.
- (9) Proposed uses which are not otherwise permitted by the underlying zoning on the parcel are accessory uses within the entire development.
 <u>Response: Criteria met</u>. Proposed uses which are not otherwise permitted by the underlying zoning on the parcel are <u>not</u> proposed.

Section 4.130 Development Requirements for Geologic Hazard Analysis:

Response: Criteria met. A Geologic Report prepared for Sahhali South, GH 05-11 dated February 9, 2005, addresses Section 4.130 and applies to the 2021 Amendment to Sahhali South Planned Development Subdivision. Geologic Hazard Report GH 05-11 recommends Development Specific Analysis for oceanfront lots and for lots where slope exceeds 19% anywhere on the lot, consistent with the requirements of Section 4.130(6). The County is authorized to impose additional report requirements at the time of development application. The 2021 Amendment

to Sahhali South to replat Lots 14-19, Tract A: Open Space, Lots 13a and 13b, Lots 46, 47, 48a and 48b is designed by Jason Morgan, PE, Morgan Civil Engineering, a Civil Engineer with experience preparing Hazard Analysis reports for local geographic conditions.

Article 6 Conditional Uses

Because a Planned Development is a Conditional Use that requires Planning Commission approval, revision to an approved Conditional Use Permit requires Planning Commission approval. The application must address <u>Section 6.040 Review Criteria</u> to determine that:

- (1) The use is listed as a Conditional Use in the underlying zone.
- (2) The use is consistent with the goals and policies of the Comprehensive Plan.
- (3) The parcel is suitable for the proposed use considering its size, shape, location, topography, existence of improvements, and natural features.
- (4) The proposed use will not alter the character of the surrounding area in a manner which substantively limits, impairs, or prevents use of surrounding properties for the permitted uses listed in the underlying zone.
- (5) The proposed use will not have a detrimental effect on existing solar energy systems, wind energy conversion systems, or windmills.
- (6) The proposed use is timely, considering the adequacy of public facilities or services existing or planned in the area affected by the use.

Section 6.040 Review Criteria

(1) The use is listed as a Conditional Use in the underlying zone.

Response: Criteria met. The Neskowin Rural Residential Zone Section 3.320(3) Conditional Uses (a) Planned Development allows a Planned Development as a Conditional use and Section 3.320(3)(b) two-family dwellings allows two-family attached single-family-dwellings as a Conditional Use.

(2) The use is consistent with the goals and policies of the Comprehensive Plan.

<u>Response: Criteria met</u>. The Application Goals are consistent with the Goals and Policies of the Tillamook County Comprehensive Plan:

<u>Goal 1 The Planning Process:</u> Citizen involvement for this planning decision is provided through the Planning Commission.

<u>Goal 2 The Land Use Plan</u>: The proposed amendments are for uses allowed in Sahhali South and the Neskowin RR Zone.

<u>Goal 5 Natural Resources</u>: The proposed amendments will continue the Sahhali South protection of Goal 5 wetlands.

<u>Goal 6 Air, Water, & Land Resources Quality</u>: The design protects water by simplifying lot access to Stormwater Drainage facilities, protects land by continuing current County Ordinance Section 4.130 and Sahhali South Geologic Assessment Report GH 05-11 requirements for development specific geologic analysis, and has proposes no changes that would affect air quality.

<u>Goal 7 Natural Hazards</u>: Natural Hazards mitigation is ensured by the County Zoning Ordinance Section 4.130 and Sahhali South Geologic Assessment GH 05-11 requirement for development specific Geologic Hazard Reports.

<u>Goal 8 Recreation</u>: Sahhali South provides access to recreation opportunities at ocean beach from an elevated and protected beach access across the protected Sahhali South Open Space. <u>Goal 9 Population and Economy</u>: The Rural Recreation Zone provides a beneficial economic location for these homes.

<u>Goal 10 Housing</u>: The proposed amendments facilitate housing flexibility for either detached or attached two-unit single-family-dwellings commensurate with the market demand.

<u>Goal 11 Public Facilities</u>: The proposed amendments do not affect the adequate capacity of available public facilities.

<u>Goal 12 Transportation</u>: The proposed amendments improve capacity of existing streets, specifically by platting Fire Truck turnarounds consistent with the 2019 Oregon Fire Code Appendix D at the end of Venora Street and Thalassa Drive.

<u>Goal 13 Energy Conservation</u>: The proposed amendments improve energy conservation and reduce development impacts by simplifying access to stormwater drainage facilities and reducing the need to excavate steep slopes for development by transferring development rights from steep slopes to low and lower slope areas and dedicating the steep slopes to protected undeveloped open space.

(3) The parcel is suitable for the proposed use considering its size, shape, location, topography, existence of improvements, and natural features.

Response: Criteria met. The 2021 Amendment to Sahhali South Planned Development Subdivision is suitable for the proposed use considering its size, shape, location, topography, existence of improvements and natural features. The 2021 Amendment simplifies the design of the lots A-1, A-2, 13a, 13b, 14-19, 46-48 and uses the improvements provided by the 2005 and 2007 Sahhali South decisions with the only addition 2019 Oregon Fire Code Appendix D, consistent Fire Truck turnarounds at the end of Thalassa Drive and Venora Street.

(4) The proposed use will not alter the character of the surrounding area in a manner which substantively limits, impairs, or prevents use of surrounding properties for the permitted uses listed in the underlying zone.

Response: Criteria met. The 2021 Amendment to Sahhali South Planned Development Subdivision does not alter the character of the surrounding area in any way that substantively limits, impairs, or prevents use of surrounding properties for the permitted uses listed in the underlying zone. The 2021 Amendment to Sahhali South continues the development character of detached and attached two-unit single-family-dwellings approved with the Sahhali South 2005 and 2007 decisions.

(5) The proposed use will not have a detrimental effect on existing solar energy systems, wind energy conversion systems, or windmills.

Response: Criteria met. The 2021 Amendment to Sahhali South Planned Development will not have a detrimental effect on existing solar energy systems, wind energy conversion systems, or

windmills. The replatted lots locates development in substantially the same location as prior to the replat, with the exception that development is relocated from steep slopes on Lots 13a and 13b to low slopes on Tract A and low and lower slopes on Lots 13a, 13b, and Open Space adjacent to Lot 13b.

(6) The proposed use is timely, considering the adequacy of public facilities or services existing or planned in the area affected by the use.

Response: Criteria met. The Wastewater System is certified by the Consultant and supported by Oregon Department of Environmental Quality communication to have the capacity to support the addition of one lot. The application for final plat will include approved construction plans for any additional infrastructure, anticipated to be minimal, limited to easements to provide utility access to Lot 13a and 13b, stormwater improvements to Thalassa Drive, and construction plans for Fire Code compliant turnarounds at the terminus of Thalassa Drive and Vanora Street.

<u>Article 10 Development Approval Procedures</u>

Section 10.020 Applications

Response: Criteria met.

Consistent with Section 10.020(1) Applications for Type III Planning Actions may be initiated by

- (a) the owner of the property that is the subject of the application; and
- (g) by the representative or agent of any of the above upon submittal of written authorization to make such application.

Applicant Richard Boyles is the Sahhali South Declarant, the only party authorized by the Recorded CCRs (2007) Section 10.1.4. Combination, Division, Status, to apply for these 2021 amendments to the Sahhali South Planned Development. Under Section 10.020(3), (a) when an applicant applies for more than one type of land use, the proceedings may be consolidated if and as has been requested by the applicant for review and decision, (b) at the highest type, Type III Planning Commission Quasi-Judicial Review, (c) with findings for each application.

Consistent with Section 10.020(6), (b) Application submittal requirements:

Application is submitted in electronic format including:

- (i) Two signed application forms for Conditional Use and Land Division. Amendment to a Planned Development is a Conditional Use. The Land Divisions include Property Line Adjustments for Lots 13a, 13b, 14-19, 46-48, Vacation of Lot Line to combine Lots 48a and 48b and Partition of Tract A.
- (ii) Payment of applicable review fees.
- (iii) Proof of ownership is included with the Title Report.
- (iv) Detailed description of all existing and proposed uses and structures, including a summary of all information included in the included civil plans.
- (v) Detailed statement that demonstrates how the proposal meets all applicable approval criteria, zoning and land use regulations, and development standards.
- (vi) Civil engineering plans prepared by a qualified civil engineer, preliminary plat, and final plat to be provided as a condition of approval.

(vii) Information demonstrating compliance with prior decisions and conditions of approval for the subject site as applicable. The application includes electronic copies of decision documents for the original 2005 Sahhali South approval and 2007 Amendment to Sahhali South.

<u>Consistent with Section 10.030 Pre-Application Conference</u> multiple meetings have been held with the Community Development Department and applicable decision personnel to discuss design standards, improvement requirements, and procedures for the review and approval of the proposed land use actions.

<u>Consistent with Section 10.040 Review Types</u>, as a Planned Development, these consolidated applications will be reviewed by the Planning Commission as a Type III Quasi-Judicial decision.

<u>Section 10.080 Type III Procedures</u> provides procedures for Planning Commission review of these applications.

Tillamook County Land Division Ordinance

Section 060: Preliminary Plat Submission Requirements.

Response: Criteria met.

Consistent with Land Division Ordinance Section 060:

<u>Section 060(1)(a) General Preliminary Plat Requirements</u>: The application addresses Article 10 Section 10.070, Partitions.

<u>Section 060(1)(b) Preliminary Plat Information</u>: The application consists of drawings and supplementary material adequate to provide the following information:

- (i) General Information: Plans relied on for the application include:
- (2) Date, north arrow, scale of drawing.
- (3) Location of the development sufficient to define its location, boundaries, and a legal description of the site.
- (4) Zoning of parcel to be divided including any overlay zones.
- (5) A title block including the names, addresses and telephone numbers of the owners of the property, and as applicable, the name of the engineer and surveyor and the date of the survey.
- (6) include Land Division Application includes a design prepared by a Civil Engineer to support Replat preparation by the project Land Surveyor.
- (7) Name and addresses of the owner, developer, engineer, and surveyor.
- (ii) Existing Conditions: Existing conditions are described by approved Construction Plans, County Decision Documents, and Recorded Surveys that identify:
- (1) Existing streets or roads including location, names, right-of-way, and pavement widths on and abutting the site, and location of existing access points.
- (2) Width, location, and purpose of existing easements, of record and abutting the site.

- (3) Lots affected by the replat are vacant. Lots affected by the setback clarification include development that will meet the use and setback standards.
- (4) Location and identity of all utilities and abutting the site will not change. An easement will be provided from the utilities in Heron View Drive to provide for Lots 13a and 13b.
- (5) The location of the existing Community Septic System including drain fields and easements is known, not proposed to be amended; and diagrams are provided in the record.
- (6) Ground elevations are shown by contour lines at 2-foot vertical interval, provided by the Civil Engineer using Lidar as a source.
- (7) The location and elevation of the closest benchmark is provided with the recorded Subdivision Plat, C-522, Partitions P-936, and P-937.
- (8) Natural features such as drainage ways, wetlands and marshes are identified by National Wetland Inventory. No wetlands or marsh are within the affected lots.
- (9) Flood Data is provided by the FEMA Flood Insurance Rate Maps. Lots affected by the Replat are outside of the regulated Flood Hazard Overlay Zone.
- (10) North Arrow and Scale are provided.
- (11) No additional studies were required by the Tillamook County Department of Community Development.

(iii) Proposed Development. The proposed development identifies:

- (1) Proposed re-platted lots 13a, 13b, 14-19, 46-48, proposed Partition of Tract A, 13a, 13b, Proposed Vacation of Lots 48a and 48b to create Lot 48. Approximate design of street improvements to provide Fire Code Turnarounds at the terminus of Venora Street to serve Lots 47 and 48, and Thalassa Drive, to serve Lots 13a and 13b, to be installed with the first permit.
- (2) City boundary lines do not cross or adjoin the subdivision.
- (3) Easements to provide Lot 13a and Lot 13b access to utilities in Heron View Drive.
- (4) Proposed CCR amendment.
- (5) Lots and private tracts (Venora Street, Thalassa Drive) approximate dimensions, area calculation in square feet, and identification of numbers for all proposed lots and tracts.
- (6) Proposed uses of the property for detached and attached single family dwellings and open space.
- (7) On slopes exceeding an average of 10% the Civil Engineer recommends in an assessment report that development can meet proposed build area designations and the recommendations of the GH 05-11 Geologic Assessment.
- (8) Sewer, water, and storm drainage are shown on approved existing infrastructure plans.
- (9) The location and identity of other utilities, including the locations of street lighting fixtures as applicable is provided on approved existing infrastructure plans.
- (10) The Flood Insurance Rate Map (FIRM) identifies that the affected property is not located in regulated flood hazard overlay zone.
- (11) No new road connections are proposed. The applicant and representatives met with the Fire Chief and Public Works Director to discuss the street connections. The Fire Chief requested the plat of a Fire Truck Turnaround at the terminus of Venora Street, to serve Lots 47 and 48, and Thalassa Drive, to serve Lots 13a and 13b, to be installed with the first applicable permit.

Amend Master Plan, CCR Setbacks, Partition Tract A, Replat Lots 13a, 13b, 14-19, 46-48b.

- (12) Certificates or letters from utility companies or districts stating that they are capable of providing service to the proposed development. Oregon DEQ provided an email confirming that the community septic has adequate capacity to serve the additional lot and the proposed replat. The Neskowin Regional Water District has provided recommendation that the additional lot will not exceed capacity of water resources. The Tillamook People's Utility District has provided a letter stating that the electrical service installed in Sahhali South has capacity to serve the replat and the additional lot.
- (d) A portfolio collection of the application documents and fifteen hard copies are provided for distribution to the authorities identified in (e).

Section 070: Preliminary Plat Approval Criteria.

Response: Criteria met.

- (1) Approval Criteria: requires that:
- (a) The land division application shall conform to the requirements of this Ordinance.
- (b) All proposed lots, blocks, and proposed land uses shall conform to the applicable provisions of the Land Use Ordinance, Article 3 Zone Regulations, and the standards in Section 150 of this Ordinance.
- (c) Access to individual lots and public improvements necessary to serve the development, including but not limited to water, sewer, and streets shall conform to the standards in Section 150 of this ordinance.
- (d) The proposed plat name is not proposed to be changed.
- (e) The proposed streets, utilities, and surface water drainage facilities conform to Tillamook County's adopted master plans and applicable engineering standards and, within unincorporated community boundaries, allow for transitions to existing and potential future development on adjacent lands. The preliminary plat shall identify all proposed public improvements and dedications.
- (f) All proposed private common areas and improvements, if any, are identified on the preliminary plat and maintenance of such areas is assured through appropriate legal instrument.
- (g) Provision for access to and maintenance of off-right-of-way drainage, if any.
- (h) Evidence that any required State and Federal permits, as applicable have been obtained or can reasonably be obtained prior to development.
- (i) Evidence that improvements, or conditions required by the road authority, Tillamook County, special districts, utilities, and / or other service providers, as applicable to the project have been or can be met, including but not limited to:
 - i. Water Department / Utility District Letter which states that the partition is included within the district for purposes of receiving services and subjecting the partition or subdivision to the fees and other charges of the district.
 - ii. Subsurface sewage permit(s) or site evaluation approval(s) from the appropriate agency.

Section 120 Replatting and Vacation of Plats:

Amend Master Plan, CCR Setbacks, Partition Tract A, Replat Lots 13a, 13b, 14-19, 46-48b.

Response: Criteria met:

- (1) The replat is requested by the owner.
- (2) The same procedure and standards that apply to the creation of a plat (preliminary plat followed by a final plat) is being used to replat a recorded plat.
- (3) Limitations on replatting include, but are not limited to, the following:
 - (a) The replat is for a recorded plat.
 - (b) The replat does not vacate any public street or road.
 - (c) The replat does not act to vacate any recorded covenants or restrictions.
- (4) The replat meets applicable County Standards and does not abridge any public rights.
- (6) Vacation of Lot Lines, owner authorized, that separate Lot 48 into Lot 48a and 48b is proposed by the owner.

Section 130: Property Line Adjustments.

Response: Criteria met:

- (1) A Property Line Adjustment requests the modification of lot boundaries, Lots 13a, 13b, 14-19, 46-48, where no parcel or lot is created.
- (a) Submission Requirements: The application includes:
- * A preliminary property line map drawn to scale identifies existing and proposed lot lines and dimensions.
- * No structures are affected by the Property Line Adjustments.
- * Location and Dimensions of public and private streets within and abutting the subject lots.
- * A FEMA FIRMette identifying that the affected lots are not within the regulated Flood Zone.
- * No fences or walls are affected by the application.
- * Applications are signed by all owners on the deeds of the subject lots.
- (b) Approval Criteria: Consistent with the criteria, the replat of Lots 14-19, 46, 47, 48a and 48b:
- i. No additional parcel or lot is created.
- ii. Consistent with Lot Standards:
 - 1. All lots and parcels conform to applicable lot standards of the zone including lot area, dimensions, setbacks, and coverage...
 - 4. As applicable, all lots and parcels conform to the Tillamook County Flood Hazard Overlay Zone.
- iii. Consistent with Access and Road authority standards: All lots and parcels conform to the standards or requirements of Section 10.150 Development Standards for Land Divisions and all applicable road authority requirements. Roads are made conforming to road authority standards by the property line adjustment.
- (2) <u>Property Line Adjustments in Subdivisions and Partitions</u>: Consistent with the criteria:
- (a) Proposed property line adjustments are proposed as replat consistent with Section 120 Replatting and Vacation of Plats.
- (b) Proposed property line adjustments are applied for under Section 130 because:

- i. The property line adjustment will not result in a substantial reconfiguration of the affected lots, where determined so by the director.
- ii. All other requirements for property line adjustment set forth in Section 130 are met.

Section 150 Development Standards for Land Divisions:

Response: Criteria met. Consistent with Section 150:

- (1) <u>Water Supply</u>: All lots are served by a public water system. The application includes a letter of support for the replat from the local water system provider, Neskowin Rural Water District. The final plat will include construction plans approved by the Water District which are anticipated to include an easement for water line service to serve Lots 13a and 13b. No other water system changes are anticipated as necessary.
- (2) <u>Sewage</u>: All lots are served by a community septic system. The application includes a letter of support for the replat from the consultant managing the system and communication of support from the Oregon Department of Environmental Quality. The final plat will include construction plans which are anticipated to include an easement for wastewater line service to serve Lots 13a and 13b. No other wastewater system changes are anticipated as necessary.
- (3) <u>Streets, General</u>: All lots are served by Sahhali South Streets. The only additional improvement is the plat of two Fire Truck Turnarounds, consistent with the 2019 Oregon Fire Code Appendix D. The first at the terminus of Venora Street to serve Lots 47 and 48 and the second at the terminus of Thalassa Drive to serve Lots 13a and 13b, required to constructed with the first of those lots to be developed.
- (4) <u>Access</u>: All lots abut a public road or private easement for at least 25 feet at a width approved by the Public Works Department.
- (5) <u>Storm Drainage System</u>: The stormwater system was improved with the 2005 and 2007 construction of Sahhali South and the first amendment. Additional stormwater facilities approved by the Public Works Department will be provided to serve the new turnarounds at the terminus of Venora Street and Thalassa Drive and to improve stormwater drainage to serve Lots 13a and 13b.
- (6) <u>Blocks</u>: The length, width and shape of blocks considers the need for adequate lot size and width and recognizes the limits of topography.
- (7) <u>Building Lines</u>: Building setback lines are shown on the affected lots and dedicated in the CCR amendments. Special setbacks are recommended by the project Civil Engineer for lots 16 19 (4 lots).

(10) Easements:

(a) Utility Lines: Utility easements to serve Lots 13a and 13b are proposed.

(11) <u>Lots</u>:

- (a) <u>Size</u>: Lot sizes conform to the Tillamook County Zoning Ordinance, established for a Planned Development, as density consistent with the underlying zone. The proposed replat retains the current average lot size and is within the lot minimum and maxim.
- (b) (Septic): Oregon DEQ confirmed that the current community septic permit supports the replat and the addition of one lot.
- (c) Access: Each lot abuts upon a street or private road other than an alley for a width of at least 25 feet.

Narrative Date: March 28, 2022; Plan Development, LLC.

Amend Master Plan, CCR Setbacks, Partition Tract A, Replat Lots 13a, 13b, 14-19, 46-48b.

- (d) Through Lots: No new through lots are provided.
- (e) <u>Lot Side Lines</u>: The replat revises lots so that the side lines of lots run at right angles to the street upon which they face.

TEXT OF APPLICABLE CRITERIA ADDRESSED BY THIS APPLICATION

Tillamook County Zoning Ordinance

Section 3.320 Neskowin Rural Residential Zone (NeskRR):

. . .

- (2) Uses Permitted Outright:
- (a) Single-family dwelling.

. . .

- (3) Uses Permitted Conditionally:
- Planned Development ... including only uses allowed in Neskowin Zones and excluding commercial development, resorts, hotels, and motels. The number of attached single family dwelling units shall be established in the Planned Development approval process... Wetlands or other areas which cannot be developed due to the existence of sensitive natural features protected by the requirements of this ordinance shall not be used in calculating gross area available for density allowed in a clustered development.
- (b) Two-family dwelling.

. . .

- (4) Standards:
- (a) The minimum lot size is 20,000 square feet ...

. . .

Section 3.520 Planned Development Overlay (PD)

The purpose of the Planned Development is to permit greater (1)flexibility and creativity in the design of land development than is presently possible through the strict interpretation of conventional zoning and land division ordinances. The intent is to encourage development designs that preserve and take advantage of the natural features and amenities of a property such as, but not limited to, views, water frontage, wetlands, sloping topography, geologic features, and drainage areas. A Planned Development should be compatible with the established and proposed surrounding land uses. A Planned Development should accrue benefits to the County and the general public in terms of need, convenience, and service sufficient to justify any necessary exceptions to the zoning and land division ordinances.

Narrative Date: March 28, 2022; Plan Development, LLC.

(2) Standards and Requirements:

The following standards and requirements shall govern the application of a Planned Development in an area in which it is permitted.

. . .

- (c) The density of a planned development will be based on the density of the underlying zone.
- (d) The height limit may be increased to not more than 35 feet by the Planning Commission in approving a specific Planned Development project. If the applicant is requesting a height increase, this request shall be noted in the notice to affected property owners. The Planning Commission may allow an increase in the height if there is a reasonable basis for the additional height such as topography of the site, clustering of units, preservation of open space, staggering of building sites, and view corridors between oceanfront dwelling units.
- (e) Dimensional standards for lot area, depth, width, and all yard setback standards of the underlying zone shall not apply, and these standards shall be established through the Planned Development approval process in order to fulfill the purpose set forth in Section 3.520(1). ...
- (f) The development standards of the Land Division Ordinance shall provide the basic guide for the design of a Planned Development. Variances may be permitted through the Planned Development approval process in order to fulfill the purposes set forth in Section 3.520(1). ...
- (3) <u>Planned Development Procedure</u>: The following procedures shall be observed for and acting on a planned development:
- (a) An applicant shall submit a preliminary development plan to the Planning Department for review. The preliminary plan shall include the following information:
 - (1) Proposed land uses, building locations, and housing unit densities.
 - (2) Proposed circulation pattern indicating the status of street ownership.
 - (3) Proposed open space uses.
 - (4) Proposed grading and drainage pattern.
 - (5) Economic and supporting data to justify any proposed commercial development in an area not so zoned.

- (6) Relation of the proposed development to the surrounding area and the comprehensive plan.
- (b) <u>During its review</u>, the Planning Commission shall distribute copies of the proposal to County agencies for study and comment. In considering the plan, the Planning Department shall seek to determine that:
 - (1) There are special physical circumstances or objectives of development which the proposal will satisfy to warrant a departure from the standard ordinance requirements.
 - (2) Resulting development will not be incompatible with the comprehensive plan provisions or zoning objectives of the area.
 - (3) The plan can be completed within a reasonable period of time.
 - (4) The streets are adequate to support the anticipated traffic and the development will not overload the streets outside the planned area.
 - (5) Proposed utility and drainage facilities are adequate for the population densities and type of development proposed.
 - (6) The parcel is suitable for the proposed use, considering the size, shape, location, topography, existence of improvements, and natural features.
 - (7) The proposed use will not alter the character of the surrounding area in a manner which substantially limits, impairs, or prevents the use of surrounding properties for the permitted uses listed in the underlying zone.
 - (8) The proposed use is timely, considering the adequacy of public facilities and services existing or planned for the area affected by the use.
 - (9) Proposed uses which are not otherwise permitted by the underlying zoning on the parcel are accessory uses within the entire development.
- (c) The Planning Department shall notify the applicant whether, in its opinion, the foregoing provisions have been satisfied and, if not, whether they can be satisfied within further plan review.
- (d) ...
- (e) If the property is to be divided under the provisions of the Land Division Ordinance, a request according to the requirements of the Ordinance shall be included as part of the Planning Commission's review.

- (f) The filing fee for a planned development is the total of all fees for the action requested.
- (g) In addition to the requirements of this section, the Planning Commission may attach conditions it finds are necessary to carry out the purposes of this ordinance.
- (h) Planned Development shall be identified on the zoning map with the letters "PD" in addition to the abbreviated designation of the existing zone.
- (i) Building permits in a planned development shall be issued only on the basis of the approved plan. Any changes in the approved plan shall be submitted to the Planning Commission for approval in accordance with the procedures for approval of a conditional use request.
- (j) In an existing PD overlay zone, lots or parcels of record as of the date of adoption of this ordinance which are less than one acre in size may be built upon in accordance with all other requirements of the zone in which the lot or parcel is located and of this ordinance.

Section 4.130 Development Requirements for Geologic Hazard Analysis:

. . .

(4) A report written for a subdivision, planned development, or partition pursuant to the requirements of this Section, may be used to satisfy these requirements for subsequent building ...permits providing that the original report provided recommendations on building placement and construction and that these recommendations are followed. The Geologic Hazard report shall be prepared, stamped, and signed by both an Oregon Certified Engineering Geologist and a qualified Oregon Registered Engineer. ... The Planning Director or designee shall determine the boundary limits of the study area. The Geologic Hazard Report shall be prepared and submitted on forms deemed acceptable by the County and shall include plan and section al diagrams of the area showing property boundaries and the geographic information required by (6) below.

• • •

(6) The Geologic Hazard Analysis for (a) slopes 19% or greater shall include the following: (i) Soils and bedrock types; (ii) Slope; (iii) Orientation of bedding planes in relation to the dip of the surface slope; (iv)Soil depth; (v) Other relevant soils engineering data; (vi) Water drainage patterns; (vii) Identification of visible landslide activity in the immediate area.

- (7) The Geologic Hazards report shall recommend development standards that will protect the development ton the property and surrounding properties. These should include standards for: (a) Development density (when more than one use is possible); (b) Locations for structures and roads; (c) Land grading practices, including standards for cuts and fills; (d) Vegetation removal and re-vegetation practices; (e) Foundation design (f special design is necessary); (f) Road design (if applicable); (g) Management of stormwater runoff during and after construction.
- (8) The Geologic Hazard report shall include the following summary findings and conclusions: (a) The type of use proposed and the adverse effects it might have on adjacent areas; (b) Hazards to life, public and private property, and the natural environment which may be caused by the proposed use; (c) Methods for protecting the surrounding area from any adverse effects of the development; (d) Temporary and permanent stabilization programs and the planned maintenance of new and existing vegetation; (e) The proposed development is adequately protected from any foreseeable hazards including but not limited to geologic hazards, wind erosion, undercutting, ocean flooding and storm waves; (f) The proposed development is designed to minimize adverse environmental effects."

Article 6 Conditional Use Procedures and Criteria

Section 6.010 Purpose:

The purpose of a Conditional Use is to provide for uses that are not allowed by right in certain zone because of potentially adverse impacts on uses permitted by right in that zone. Such uses may be made or deemed compatible through the review process contained in this article.

Section 6.020 Procedure

The following procedure shall be observed in submitting and acting on a Conditional Use request:

(1) A request may be initiated for a conditional use or the modification of an approved conditional use by filing an application with the Department. The Department may require any information necessary for a complete understanding of the proposed use and its relationship to surrounding properties.

- (2) The Director shall act administratively [Type || Review] according to the procedure set forth in Article 10 or shall refer to the Commission for a public hearing and decision [Type || review]. The application shall be referred to the Commission if the director determines that the proposed use would have significant impacts that extend beyond the abutting properties, and that those impacts are not likely to be adequately addressed by response to public notice required by Section 10.070. If the Director elects to refer the application to the Commission, it shall be heard at the next available Commission hearing, unless the application requests otherwise.
- (3) No Conditional Use permit shall be invalidated because of failure to receive notice provided for in Section 10.070.

Section 6.030: General Requirements

A Conditional Use shall be authorized pursuant to the procedures set forth in Section 6.020, if the applicant adequately demonstrates that the proposed use satisfies all relevant requirements of this Ordinance, including the review criteria contained in Section 6.040... and the following general requirements.

- (1) A Conditional Use shall be subject to the standards of the zone in which it is located except as those standards have been modified in authorizing the Conditional use. ...
- (2) A Conditional Use may be enlarged or altered pursuant to the following:
 - (a) Major alterations of a Conditional Use, including changes to or deletions of any imposed conditions, shall be processed as a new Conditional Use application.

. . .

. . .

Section 6.040 Review Criteria

Any Conditional Use authorized according to this Article shall be subject to the following criteria, where applicable:

- (1) The use is listed as a Conditional Use in the underlying zone...
- (2) The use is consistent with the Goals and Policies of the Comprehensive Plan.

- (3) The parcel is suitable for the proposed use considering its size, shape, location, topography, existence of improvements, and natural features.
- (4) The proposed use will not alter the character of the surrounding area in a manner which substantially limits, impairs, or prevents use of surrounding properties for the permitted uses listed in the underlying zone.
- (5) The proposed use will not have a detrimental effect on existing solar energy systems, wind energy conversion systems, or windmills.
- (6) The proposed use is timely, considering the adequacy of public facilities or services existing or planned in the area affected by the use.

Section 6.070 Conditions of Approval:

In approving a Conditional Use or a modification of a Conditional Use, any conditions which are considered necessary to protect the area surrounding the proposed use, and to preserve the basic purpose and intent of the underlying zone may be imposed. These may include, and are not limited to, the following:

- (1) Increasing the required parcel size or yard dimensions.
- (2) Limiting the height, size, or location of buildings and structures.
- (3) Modifying the location and number of off-street parking and loading spaces.
- (4) Controlling the location and number of vehicle access points.
- (5) Limiting the number, size, and location of signs.
- (6) Requiring diking, fencing, screening, landscaping, or other measures to protect adjacent or nearby properties from the effects of the use.
- (7) Prescribing a time limited within which to fulfill any established conditions.

Section 6.080 Compliance with Conditions

Adherence to the approved plot plan and compliance with conditions imposed in approving a conditional use shall be required. Any departure from the conditions of approval or approved plans constitutes a violation of this Ordinance.

Section 6.090 Time Limit

All Conditional uses except those approved for a Health Hardship may be approved for a 24-month period. If construction has not begun on the approved development, such approvals may be extended beyond 24 months only if the Director determines that a

review would be unlikely to reveal new information which could lead to different conclusions than those reflected in the original staff report. For purposes of such a determination, the Director may rely on such things as:

- (1) Changes in Ordinance requirements or the requirements of State Law.
- (2) The extent and character of new development in the vicinity of the request.
- (3) The adequacy of the review upon which the original was based.
- (4) Any other circumstances which could change the substance of the original staff report.

If the Director determines that a new review is warranted, then the applicant shall provide all information and fees required by this Article.

Article 10 Development Approval Procedures

. . .

Section 10.020 Applications

- (1) Applications for ... Type III planning actions may be initiated by the following:
 - (a) The owner of the property that is the subject of the application.

. . .

- (g) By the representative or agent of any of the above upon submittal of written authorization to make such application.
- (3) Consolidated Review. When an applicant applies for more than one type of land use or development permit for the same one or more contiguous parcels of land, the proceedings may be consolidated if requested by the applicant for review and decision.
- (a) Under a consolidated review, required notices may also be consolidated, provided the notice shall identify each application to be decided.
- (b) The applications shall be processed according to the highest numbered review type required for any part of the application. For example, a concurrent review of a Type II review and a Type III review would be processed through a Type III review.
- (c) When more than one application is reviewed in a hearing, separate findings and decisions shall be made on each application.

Declarant: Richard Boyles, Sahhali South LLC.

Page 40 of 62

- (d) The application shall submit an application form and application fee for each type of application being reviewed.
- (4) Decision deadlines and time limits.
- (a) The County shall take final action on Administrative and Quasi-Judicial land use applications, including the resolution of all appeals, within the following time limits:

. . .

- ii. For all other applications: 150 days from the date the application is deemed complete.
- iii. Upon written request of the applicant, the decision period may be extended for a specified period of time. The total of all extensions shall not exceed 215 days (unless a dispute concerning the application will be mediated per ORS 214.427(10)).

. . .

(c) In computing time periods prescribed or allowed by this Chapter, the day of the act or event from which the designated period of time begins shall not be included. The last day of the period shall be included unless it is a Saturday, Sunday or a legal holiday, in which case the period runs until the end of the next day that is not on a weekend or legal holiday.

. . .

- (6) Application forms and checklists. Application forms provided by the County must be used for all applications. The County shall supply application forms pursuant to the standards contained in applicable State laws, Comprehensive Plan policies, and Ordinance provisions. The County shall also supply checklists or information sheets that specify the information that must be contained in the application including format and number of copies.
- (a) Application Types. Table 10.1 ... provides a list of all application types and their associated review procedure, review authority and appeal authority.

 Type 1. Ministerial Review. Decision: Director.

 Type II. Administrative Review. Decision: Director.

 Type III. Quasi-Judicial Review. Decision: Planning
- (b) Application submittal requirements. An Application shall be considered complete when it is submitted in accordance with the format and upon such forms as may be established by the

Declarant: Richard Boyles, Sahhali South LLC.

Commission.

Director. In addition to required hard copies, all materials must be submitted electronically or in a format that does not exceed 11 inches by 17 inches in size. A complete application is one which contains the information required to address the rele3evant standards of this ordinance and the applicable standards and requirements of the Comprehensive Plan specified by this Ordinance. At minimum, a complete application must contain the following items:

- i. Application form with applicable signatures.
- ii. Payment of applicable review fees.
- iii. Deed, title, or other proof of ownership.
- iv. Detailed description of all existing and proposed uses and structures, including a summary of all information contained in any site plans. The description may need to include both a written and graphic component such as elevation drawings or 3D models.
- v. Detailed statement that demonstrates how the proposal meets all applicable approval criteria, zoning and land use regulations, and development standards.
- vi. Site plan(s), preliminary plat, or final plat as applicable.
- vii. Information demonstrating compliance with prior decision(s) and conditions of approval for the subject site, as applicable.
- viii. Any other information identified on the specific application form or submittal checklist.
- ix. Copy of the pre-application summary, if applicable.

Section 10.030 Pre-Application Conference

(1) Purpose. The purpose of a pre-application conference is to acquaint the applicant with the substantive and procedural requirements of the Ordinance; provide for an exchange of information regarding the applicable elements of the Comprehensive Plan and development requirements; arrange such technical and design assistance as will aid the applicant; and to identify policies and regulations that create opportunities or pose significant constraints for the proposed development.

The Department shall make available such background information as may be on file relating to the general area of the subject parcel or parcels, and any plans the County may have, or information related to past activity or development in the area upon the request of the developer.

The Department shall advise the applicant of the design standards, improvement requirements, and procedures established by the County for the review and approval of the proposed land use action.

(2) Applicability.

. . .

(d) Type III decisions require a pre-application meeting with the Department for the purpose of informing the Department of the proposal. A pre-application conference may not be waived.

Section 10.040 Review Types

All land use applications will be reviewed by the County using one of the following review types. Specific applications and their associated review types are listed in Table 10.1.

. . .

(3) Type III Quasi-Judicial. Type III decisions ...are made by the Planning Commission after a public hearing, with an opportunity to appeal to the Board of Commissioners... Quasi-Judicial decisions involve the exercise of discretion and judgement when applying applicable land use and development criteria but implement established policy.

. . .

Section 10.050 General Noticing Requirements

The County shall provide opportunities for public and agency input in the planning process. To ensure that there is a coordinated effort to permit land use projects, notice of applications for development approval shall be sent to interested entities, local, state, and federal agencies, County departments, and County designated Citizen Advisory Committees. A list of applicable local, state, and federal agencies and entities shall be maintained by the Director.

10.080 Type III Procedures

- (1) Notice for Type III Decisions.
- (a) Notice of Review. The County shall provide notice of a public hearing on a Quasi-Judicial application at least 28 days prior to the first hearing date. If two or more hearings are allowed, then notice shall be provided at least 10 days prior to the first hearing. The County Planning Director shall prepare the affidavit of notice, which shall be made part of the file. This affidavit shall

state the date that the notice was mailed. Notice of the public hearing shall be provided to the following parties:

. .

ii. Property owners within 250 feet of subject property if the subject property is outside UBG and not in farm or forest zone.

. .

- viii. Other persons as may be affected by the proposal.
- (b) Notice of a public hearing shall include the following information:
 - i. A summary of the proposal and the relevant approval criteria.
 - ii. The general location of the subject property and, when available, street address, legal description, or other easily understandable reference to the location of the proposed use or development.
 - iii. The date, time and location of scheduled hearing and the name of the hearing body.
 - iv. The name of a local government representative to contact and the telephone number where additional information may be obtained.
 - v. A disclosure statement indicating that if any person fails to address the relevant approval criteria in sufficient detail, in person or at a hearing or by written statement letter, they may not be able to appeal to the Board of Commissioners, plan D sort of appeals, or Circuit Court, as applicable, on that issue. Only comments on the relevant approval criteria are considered relevant evidence.
 - vi. A statement that a copy of the application, all documents and evidence submitted by or on behalf of the applicant and applicable criteria are available for inspection at no cost and will be provided at reasonable costs.
 - vii. A statement that a copy of the staff report will be available for inspection at no cost at least seven days prior to the hearing and will be provided at reasonable costs.
 - viii. A general explanation of the requirements for submission of testimony and the procedure for conduct of hearings.
- (c) Newspaper notice. Notice of the public hearing shall be published in a newspaper of general circulation in the county at least 10 calendar days prior to the date of a

Declarant: Richard Boyles, Sahhali South LLC.

quasi-judicial public hearing. An affidavit or other formal certification of publication shall be made part of the record.

(d) Notice of decision.

- i. The notice of decision shall include the following information:
- A description of the applicant's proposal and the County's decision, including conditions of approval if applicable.
- 2. The street address or other easily understood geographical description of the subject site, including a map of the property in relation to the surrounding area.
- 3. The date the decision shall become final, unless appealed, and the due date for an appeal (12 days from the date the decision notice was mailed).
- 4. A statement that the County's decision, including findings and conclusions and conditions of approval, if any, is available for review at the county.
- 5. A statement that persons entitled to appeal pursuant to section 10.110 may appeal the planning commission's decision to the county Board of Commissioners or may appeal the Board's decision to Land Use Board of Appeals, as applicable.
- (2) Conduct of the Public Hearing.

(a) Staff Report.

At least seven days prior to the hearing, the Department shall provide to the hearing body and make available to the public for inspection or purchase a report detailing the nature of the request and findings based on the applicable criteria of this chapter.

(b) Application materials.

All application materials, documents, or other evidence submitted by or on behalf of the applicant for any land use approval shall be provided and made available for public review.

(c) Hearings Procedure.

At the commencement of the hearing, the Chairperson of the Commission or his or her designee, shall sate to

those in attendance all of the following information and instructions:

- i. The applicable approval criteria by Code chapter that apply to the decision.
- ii. Testimony and evidence shall concern the approval criteria described in the staff report, or other criteria in the comprehensive plan or land use regulations that the person testifying believes to apply to the decision.
- iii. Failure to raise an issue with sufficient detail to give the hearing body and the parties an opportunity to respond to that issue may preclude appeal to the State Land Use Board of Appeals on that issue.
- iv. At the conclusion of the initial evidentiary hearing, the hearing body shall deliberate and make a decision based on the facts and arguments in the public record. See Subsection (6) Record of the Public Hearing.
- v. Any participant may ask the hearing body for an opportunity to present additional relevant evidence or testimony that is within the scope of the hearing; if the hearing body grants the request, it will schedule a date to continue the hearing or leave the record open for additional written evidence or testimony provided in Subsection (5).

(3) Procedural Rights.

An impartial review authority as free from potential conflicts of interest and pre-hearing ex-parte (outside the hearing) contacts as reasonably possible shall be a procedural entitlement provided at the public hearing.

- (a) Where questions related to ex-parte contact are concerned, members of the hearing body shall follow the guidance for disclosure of ex-parte contacts contained in ORS 227.180.
- (b) Where a real conflict of interest arises, that member or members of the hearing body shall not participate in the hearing, except where State law provides otherwise.
- (c) Where the appearance of a conflict of interest is likely, that member or members of the hearing body shall individually disclose their relationship to the applicant in the public hearing and state whether they

are capable of rendering a fair and impartial decision. If they are unable to render a fair and impartial decision, they shall be excused from the proceedings.

(4) Presenting and receiving evidence.

- (a) The hearing body may set reasonable time limits for oral presentations and may limit or exclude cumulative, repetitious, irrelevant or personally derogatory testimony or evidence.
- (b) No oral testimony shall be accepted after the close of the public hearing. Written testimony may be received after the close of the public hearing only as provided by this Section.
- (c) Members of the hearing body may visit the property and the surrounding area and may use information obtained during the site visit to support their decision if the information relied upon is this close to the beginning of the hearing and an opportunity is provided to dispute the evidence.
- (d) after the conclusion of the initial evidentiary hearing any participant may request an opportunity 2% additional evidence or testimony regarding the application. The review authority shall grant such a request by continuing the public hearing or leaving their record open for additional written evidence or testimony pursuant to subsection 5 below.

(5) Continuance.

All documents or evidence relied upon by the applicant shall be submitted to the local government and made available to the public. If additional documents or evidence are provided by any parties, to review authority may allow a continuance or leave the record open for at least seven days to allow the parties a reasonable opportunity to respond. Any continuance for extension of the records requested by the applicant shall result in a corresponding extension of time limitations of ORS 215.428.

(a) If the review authority granted continuance, the hearing shall be continued to add date, time, and place certain at least seven days from the date of the initial evidentiary hearing. An opportunity shall be provided at the continued hearing for persons to present and rebut new evidence and testimony period if new written evidence is submitted at the continued hearing, any person may request, prior to the

- conclusion of the continued hearing, that the record be left open for at least seven days to submit additional written evidence or testimony for the purpose of responding to new written evidence.
- (b) If the review authority leaves the record open for additional written evidence or testimony the record shall be left open for at least seven days. Any participant may file a written request with the review authority for an opportunity to respond to new evidence submitted during the period the record was left open. If such a request is filed, the review authority shall reopen the record and any person may raise new issues that relate to the new evidence, testimony, or criteria for decision making which applied to the matter at issue.
- (c) A continuance or extension granted pursuant to Subsection 6 shall be subject to the limitations of ORS 215.428.
- (d) Unless waived by the applicant, the review authority shall allow the applicant at least seven days after the record is closed to all other parties to submit final written arguments in support of the application. The applicant's final submittal shall be considered part of the record but shall not include any new evidence.

(6) Record of the Public Hearing.

- (a) The official public hearing record shall include all of the following information:
 - i. All materials considered by the hearing body.
 - ii. All materials submitted by the County Planning Official to the hearings body regarding the application.
 - iii. The minutes of the hearing.
 - iv. The final written decision.
 - v. Copies of all notices given as required by this Article, and correspondence regarding the application that the County mailed or received.
- (b) The meeting minutes shall be filed in hardcopy form with the County Planning Official. The minutes and other evidence presented as part of the hearing shall be part of the record.
- (c) All exhibits received and displayed shall be marked to provide identification and shall be part of the record.

Narrative Date: March 28, 2022; Plan Development, LLC.

(7) Effective Date of Decision.

Quasi-Judicial Decision. Unless the conditions of approval specify otherwise, a Quasi-Judicial decision becomes effective ten business days after the County mails the decision notice unless the decision is appealed pursuant with Section 10.110.

Land Division Ordinance Approval Procedures.

```
Section 010:
              Purpose.
Section 020:
              Definitions.
Section 030:
              General Provisions.
Section 040:
              Preliminary Plat Approval Process.
Section 060: Preliminary Plat Submission Requirements.
Section 070:
              Preliminary Plat Approval Criteria.
Section 120: Re-Platting and Vacation of Plats.
Section 130:
              Property Line Adjustments.
Section 140: Improvement Procedures.
              Development Standards for Land Divisions.
Section 150:
```

Land Division Ordinance Approval Procedures.

Section 010: Purpose

- (1) The purpose of this Ordinance is to establish standards for property line adjustments for the division of land by way of partition or subdivision and for the development of improvements for areas of Tillamook County outside the urban growth boundaries of incorporated cities.
- (2) These regulations are necessary:
 - (a) In order to provide uniform procedures for the division of land.
 - (b) To coordinate proposed developments with development plans for highways, utilities, and other public facilities.
 - (c) To provide for the protection, conservation, and proper use of land, water, and other natural resources.
 - (d) To carry out the policies and intent of the County Comprehensive Plan.
 - (e) To ensure adequate lot and parcel sizes for homesites.
 - (f) To encourage safe and convenient access for vehicles, pedestrians, and bicyclists.
 - (g) To ensure adequate sanitation and water supply services.

- (h) for the equitable allocation of costs for improvements such as roads, sewers, water, and other service facilities.
- (i) For the protection of the public from pollution, flood slides, fire and other hazards to life and property.
- (j) To provide for energy efficient land use and the use of renewable resources.
- (k) To provide for the accurate and timely recording in the office of the County Clerk all newly created property boundaries, street, roads, rights-of-ways, and easements.
- (1) To protect in other ways, the public health, safety, and general welfare.
- (3) It is expressly not the purpose or intent of this Ordinance to encourage the division of land or the provision or extension of roads or sewer lands into lands designated for resource use by the Tillamook County Land Use Ordinance. Thus, Subdivisions shall be limited to those zones designated for residential, commercial, or industrial use. All references to sewer lines in this Ordinance apply only to lands where such services conform to the intent and purposes of the County Comprehensive Plan.

Section 020: Definitions

Partition:

The division of a tract of land into not more than three parcels of land within one calendar year when such land exists as a single unit or contiguous units of land under single ownership at the beginning of the same year.

Partition does not include:

. . .

(2) Adjusting a property line as <u>property line adjustment</u> is designed in this section.

. . .

Section 040: Preliminary Plat Approval Process.

(1) Review Procedures. Preliminary Plats for partitions shall be processed using the Type II procedure under Article 10. Preliminary Plats for subdivisions shall be processed using the Type III procedure under Article 10 Section 10.080. All preliminary plats are subject to the approval criteria in Section 10.070 of this ordinance.

- (2) Approval Period. Preliminary plats approval shall be effective for a period of two (2) years from the date of approval. The preliminary plat shall lapse if a final plat has not been submitted or other assurance provided within the two-year period. ...
- (3) Extensions. The County may, upon written request of the applicant and payment of the required fee, grant written extensions of the approval period that all of the following criteria are met:
 - (a) All requests for extensions of preliminary plat approval shall be received in the Department at least 30 days prior to the expiration date of the approval.

. . .

(d) No preliminary plat shall be approved for a period greater than 4 years.

. . .

Section 060: Preliminary Plat Submission Requirements.

- (1) Applications for Preliminary Plat approval shall contain the following information:
- (a) General Preliminary Plat Requirements. Information required for a Type II Review (for Partitions) ..., pursuant to Article 10 Section 10.070 and Section 10.080 respectively.
- (b) Preliminary Plat Information. In addition to the general information described in Subsection (a) above, the Preliminary Plat application shall consist of drawings and supplementary material adequate to provide the following information:

i. General Information:

. . .

- 2. Date, north arrow, scale of drawing.
- 3. Location of the development sufficient to define its location, boundaries, and a legal description of the site
- 4. Zoning of parcel to be divided, including any overlay zones.
- 5. A title block including the names, addresses and telephone numbers of the owners of the subject property, and, as applicable, the name of the engineer and surveyor and the date of the survey.

- 6. Clear identification of the drawing as a "Preliminary Plat" and the date of preparation.
- 7. Name and addresses of the owner(s), developer, and the engineer or surveyor.
- ii. Existing Conditions: Except where the Director deems certain information is not relevant, applications for Preliminary Plat approval shall contain all of the following information on existing conditions:
 - Existing streets or roads (public or private), including location, names, right-of-way and pavement widths on and abutting the site, and location of existing access points.
 - 2. Width, location, and purpose of existing easements of record on and abutting the site.
 - 3. The location and present use of all structures on the site and indication of which, if any, structures are to remain after platting.
 - 4. Location and identify of all utilities on and abutting the site. ...
 - 5. Location of all existing subsurface sewage systems, including drain fields and associated easements on the site.
 - 6. Ground elevations shown by contour lines at 2-foot vertical interval. Such ground elevations shall be related to some established benchmark or other datum approved by the County Surveyor. The Director may waive this standard for partitions when grades, on average, are less than 10 percent.
 - 7. The location and elevation of the closest benchmark(s) within or adjacent to the site (i.e., for surveying purposes.)
 - 8. Natural features such as drainage ways, rock outcroppings, aquifer recharge areas, wetlands, marshes, beaches, dunes, and tide flats.
 - 9. Any plat that is five (5) acres or larger, or proposes 50 lots or greater, shall include the Base Flood Elevation, per FEMA Flood Insurance Rate Maps.
 - 10. North arrow and scale.
 - 11. Other information, as deemed necessary by the Planning Director for review of the application. The County may require studies or exhibits prepared by qualified professionals to address specific site features and code requirements.

Narrative Date: March 28, 2022; Plan Development, LLC.

- iii. Proposed Development. Except where the Director deems certain information is not relevant, applications for Preliminary Plat approval shall contain all of the following information on the proposed development.
 - 1. Proposed lots, streets, open space, and park land (if any); location, names, right-of-way dimensions, approximate radius of street curves and approximate finished street center line grades ... All streets and tracts that are being held for private use and all reservations and restrictions relating to such private tracts shall be identified.
 - 2. City boundary lines when crossing or adjoining the subdivision.
 - 3. Easements: location, width, and purpose of all proposed easements.
 - 4. Proposed deed restrictions, if any, in outline form.
 - 5. Lots and private tracts (e.g., private open space, common area, or street): approximate dimensions, area calculation (e.g., in square feet), and identification numbers for all proposed lots and tracts.
 - 6. Proposed uses of the property, including all areas proposed to be dedicated as public rights-of-way or preserved as open space for the purpose of surface water management, recreation, or other use.
 - 7. On slopes exceeding an average grade of 10%, as shown on a submitted topographic survey, the preliminary location of development on lots (e.g., building envelopes), demonstrating that future development can meet minimum required setbacks and applicable engineering design standards.
 - 8. Preliminary utility plans for sewer, water, and storm drainage when these utilities are to be provided. This information may be included on the preliminary plat map provided all information is legible.
 - 9. The approximate location and identify of other utilities, including the location s of street lighting fixtures, as applicable.
 - 10. Evidence of compliance with applicable overlay zones, including but not limited to the Flood Hazard Overlay (FH) Zone.
 - 11. Evidence of contact with the applicable road authority for proposed new street connections.
 - 12. Certificates or letters from utility companies or districts stating that they are capable of providing service to the proposed development.

. . .

- (d) Fifteen (15) legible "to scale" hard copies, or a lesser amount as deemed necessary by the Director, and one digital copy of the preliminary plat and all supplementary materials shall be submitted to the Department.
- (e) Upon receipt of the preliminary plat and supplementary material, the Department shall furnish one copy each to the County Surveyor, the County Health Department, the County Sanitarian, the County Public Works Department, the County Assessor, and the appropriate school and fire districts.
 ... When the Department determines that it is necessary to do so, it shall furnish a copy of the plans to the Tillamook County Soil and Water Conservation District (SWCD), the appropriate water and sewer districts, the telephone service and electric service companies, and appropriate state or federal resource protection agencies.

Section 070: Preliminary Plat Approval Criteria.

(1) Approval Criteria.

The Approval Authority (Director for Partitions ...) may approve, approve with conditions, or deny a preliminary plat. The Approval Authority decision shall be based on findings of compliance with all of the following approval criteria:

- (a) The land division application shall conform to the requirements of this ordinance.
- (b) All proposed lots, blocks, and proposed land uses shall conform to the applicable provisions of the Land Use Ordinance, Article 3 Zone Regulations, and the standards in Section 150 of this Ordinance.
- (c) Access to individual lots and public improvements necessary to serve the development, including but not limited to water, sewer and streets, shall conform to the standards in Section 150 of this ordinance.
- (d) The proposed plat name is not already recorded for another subdivision, does not bear a name similar to or pronounced the same as the name of any other subdivision within the County, unless the land platted is contiguous to and platted by the same party that

Narrative Date: March 28, 2022; Plan Development, LLC.

platted the subdivision bearing that name or unless the party files and records the consent of the party that platted the contiguous subdivision bearing that name.

- (e) The proposed streets, utilities, and surface water drainage facilities conform to Tillamook County's adopted master plans and applicable engineering standards and, within unincorporated community boundaries, allow for transitions to existing and potential future development on adjacent lands. The preliminary plat shall identify all proposed public improvements and dedications.
- (f) All proposed private common areas and improvements, if any, are identified on the preliminary plat and maintenance of such areas is assured through appropriate legal instrument.
- (g) Provision for access to and maintenance of off-right-of-way drainage, if any.
- (h) Evidence that any required State and Federal permits, as applicable have been obtained or can reasonably be obtained prior to development.
- (i) Evidence that improvements, or conditions required by the road authority, Tillamook County, special districts, utilities, and/or other service providers, as applicable to the project have been or can be met, including but not limited to:
 - i. Water Department / Utility District Letter which states that the partition or subdivision is either entirely excluded from the district or is included within the district for purposes of receiving services and subjecting the partition or subdivision to the fees and other charges of the district.
 - ii. Subsurface sewage permit(s) or site evaluation approval(s) from the appropriate agency.
- (2) Conditions of Approval.

The Approval Authority may attach such conditions as are necessary to carry out the provisions of this Code, and other applicable ordinances or regulations.

Section 120: Replatting and Vacation of Plats

- (1) Any plat or portion thereof may be re-platted or vacated upon receiving an application signed. By all of the owners appearing on the deed or vacated pursuant to subsection (5) or (6).
- (2) The same procedure and standards that apply to the creation of a plat (preliminary plat followed by final plat) shall be used to re-plat a recorded plat.
- (3) Limitations on replatting include, but are not limited to, the following:
 - (a) A replat shall apply only to a recorded plat.
 - (b) A replat shall not vacate any public street or road.
 - (c) A replat of a portion of a recorded plat shall not act to vacate any recorded covenants or restrictions.
- (4) A replat application may be denied if it abridges or destroys any public right in any of its public uses, improvements, streets, or alleys, or if it fails to meet any applicable County standards.
- (5) Vacation of lot lines: Quasi-Judicial. One or more interior lot lines in a recorded plat may be vacated either by private petition or by public resolution as prescribe din ORS 368. A lot line vacation under this provision is a quasi-judicial action subject to an established fee, petition / application, notice and hearing before the Planning Commission.
- Vacation of lot lines: Owner Consent: Notwithstanding the above provision, and as authorized by ORS 368, one or more interior lines in an approved subdivision or partition may be vacated upon written consent from 100 percent of those who own the private property proposed to be vacated; or in cases involving public property, written consent shall be obtained from 100 percent of property owners abutting the public property proposed to be vacated.
 - (a) A pre-application conference and administrative action fee shall be required. Property owner consent shall be obtained by the applicant and submitted to the

Planning Department on forms provided by the County. Those owners whose consent signature is required shall be identified by the Planning Department. Property owner consent signatures shall be verified by sending a copy of the signed consent form to each identified property owner.

- (b) The line vacation shall be approved:
 - i. Upon verification of the required consent signatures.
 - ii. After the Director or the Public Works Director file a written report finding that the action:
 - 1. Complies with applicable land use regulations.
 - 2. Facilitates development of the private property subject to the vacation.
 - 3. Any vacation of public property is in the public interest.

Section 130: Property Line Adjustments.

- (1) A Property Line Adjustment is the modification of a parcel or lot boundary when no parcel or lot is created. The Director reviews applications for Property Line Adjustments pursuant with the Type I procedure under Section 10.060 [Preliminary Plat Submission Requirements]. The application submission and approval process for Property Line Adjustments is as follows:
 - (a) Submission Requirements.

All applications for Property Line Adjustments shall be made on forms provided by the County and shall include information required for a Type I review, pursuant to Section 10.060 [Preliminary Plat Submission Requirements].

The application shall include:

- A preliminary property line map drawn to scale and based on the Director's determination, may be required to identify all existing and proposed lot lines and dimensions.
- Footprints and dimensions of existing structures (including accessory structures).
- Location and dimensions of driveways and public and private streets within or abutting the subject lots.
- A FEMA FIRM-ette identifying the subject properties and demonstration of compliance to <u>Section 3.060</u> [Flood Hazard Overlay (FH) Zone].

- Tillamook County Flood Hazard Overlay Zone; existing fences and walls; and
- Any other information deemed necessary by the Director for ensuring compliance with County codes.
- The application shall be signed by all the owners as appearing on the deeds of the subject lots.
- (b) <u>Approval Criteria</u>. The Director shall approve or deny a request for a property line adjustment in writing based on the following criteria:
 - i. <u>Parcel creation</u>. No additional parcel or lot is created by the lot line adjustment.

ii. Lot standards.

- 1. All lots and parcels conform to the applicable lot standards of the zone including lot area, dimensions, setbacks, and coverage, except where 2 or 3 applies.
- 2. For properties entirely outside an Unincorporated Community Boundary, where one or both of the abutting properties are smaller than the minimum lot or parcel size for the applicable zone before the property line adjustment, one property shall be as large or larger than the minimum lot or parcel size for the applicable zone after the adjustment.
- 3. For properties entirely outside an Unincorporated Community Boundary, both abutting properties are smaller than the minimum lot size for the applicable zone before and after the property line adjustment.
- 4. As applicable, all lots and parcels shall conform the Tillamook County Flood Hazard Overlay Zone.
- iii. Access and Road authority standards.

 All lots and parcels conform to the standards or requirements of Section 10.150 [Development Standards for Land Divisions] and all applicable road authority requirements are met. If a lot is nonconforming to any road authority standard, it

Narrative Date: March 28, 2022; Plan Development, LLC.

shall not be made less conforming by the property line adjustment.

- (c) Recording Property Line Adjustments.
 - i. All property line adjustments shall comply with ORS Chapter 92 and be executed by deed.
 - ii. All deeds necessary to execute a property line adjustment shall be filed and recorded with the Tillamook County Clerk's office.
- (2) Property Line Adjustments in Subdivisions and Partitions.
 - (a) Except as provided in subsection (b), all property line adjustments within recorded plats shall be accomplished by replatting in accordance with Section 10.120 [Replatting and Vacation of Plats].
 - (b) Property lines within a recorded plat may be adjusted in accordance with the procedure for property line adjustments set forth in Section 10.130 [Property Line Adjustments], rather than replatting when the director determines that:
 - i. The property line adjustment will not result in a substantial reconfiguration of the affected lots or parcels, as determined by the Director.
 - ii. All of the other requirements for property line adjustments set forth in <u>Section 10.130</u> [Property Line Adjustments] will be met.

<u>Section 150: Development Standards for Land Divisions</u> The following requirements shall apply to all land divisions:

- (1) <u>Water Supply</u>: All lots or parcels shall either be served by a public domestic water supply system conforming to State of Oregon specifications.
- (2) <u>Sewage</u>: All lots or parcels shall either be served by a public or community sewage disposal system conforming to state specifications and policies and intent of the Comprehensive Plan, ... Such systems shall be approved by the County Sanitarian considering soil and water conditions and the nature of the water supply.
- (3) <u>Streets, General</u>: The developer shall grade and improve all streets in the subdivision or partition and shall

extend such streets to the paving line of existing streets, in conformance with the standards contained in this Ordinance. Street improvements shall be provided consistent with the standards in Sections 150 and 160 and shall include curbs and shoulders to the extent that they are required by the density or character of the development. Improvements may be required by the Public Works Department on streets serving but not within the boundaries of the Subdivision or through Partition of a parcel with a buildout potential of 5 or more parcels. Such improvements which are required in areas not within the plat perimeter shall be limited to the extent required to serve the proposed Subdivision or Partition.

(4) Access:

(a) All parcels created by a partition shall abut a public road or private easement for at least 25 feet for access. All private easements serving four or fewer lots shall be at least 25 feet wide unless a lesser width is approved by the Public Works Department.

(5) Storm Drainage System:

Such grading shall be performed, and drainage facilities installed confirming to Tillamook County Public Works Department specifications as are necessary to provide proper drainage within the development and other affected areas in order to secure safe, healthful, and convenient conditions for the residents of the Subdivision and the general public. When feasible, and when such off-site drainage facilities have the capacity to carry the increased drainage flow, drainage facilities in the development shall be connected to drainage facilities outside the development. Areas subject to inundation shall comply with the applicable provisions of the Tillamook County Land Use Ordinance. Provisions for the access and maintenance of storm drainage facilities that are not located in a public right of way shall be provided as required in accordance with adopted County standards. An easement or tract with adequate width for access and maintenance of drainage facilities shall be provided.

(a) Design exceptions to these standards may be approved by the Tillamook County public works director. For subdivisions, such approval is subject to approval ratification by the Planning Commission. The county engineer may, in concurrence with the community development department, approved design exceptions to

these standards for petitions. Design exceptions may only be approved if the provisions of section 110: minor revisions to preliminary approved land divisions are met.

(b) When lot sizes are increased to provide separation of water sources and sewage disposal systems but are likely to be capable of further division as described in section 050 of this ordinance, the requirements of section 050 must be met.

(6) Blocks:

- (a) <u>General</u>: The length comment width and shape of blocks shall take into account the need for adequate lot size and width and shall recognize the limitations of the topography.
- (b) <u>Size</u>: No block shall be more than 1000 feet in length between street corner lines unless it is adjacent to an arterial street or unless topography or the location of adjoining streets requires otherwise. ...

(7) Building Lines:

(a) If special building set back lines are to be established in the subdivision, they shall be shown on the preliminary subdivision plat. If setbacks are proposed which are less than the minimum requirements contained in either the land use ordinance or in Section 100 of this ordinance, the Planning Commission may approve such special setbacks only in accordance with the requirements of Section 080 of this ordinance. Special set back lines shall not be established which would preclude the use of insulation for alternative energy production on adjacent blocks.

(9) Dedications:

The Commission may require as a condition of approval the dedication to the public rights of way for public purposes. All dedications must appear on the final plat and be approved by the county prior to recording.

(10) Easements:

(a) Utility Lines:
Easements for utilities shall be dedicated whenever necessary.

(b) Pedestrian Ways:

When desirable for public convenience, pedestrian ways may be required to connect cul-de-sacs or to pass through unusually long or oddly shaped blocks.

(11) Lots:

- (a) Size:
 - Lot sizes shall conform to standards contained in the Tillamook County Land Use Ordinance. ...
- (b) In areas that will not be served by public water supply or public sewer, minimum lot sizes shall conform to the requirements of the County Health Department and shall take into consideration requirements for water supply and sewage disposal.
- (c) Access:
 - each lot shall abut upon a street or private road, other than an alley, for a width of at least 25 feet.
- (d) Through lots: ...
- (e) Lot Side Lines:

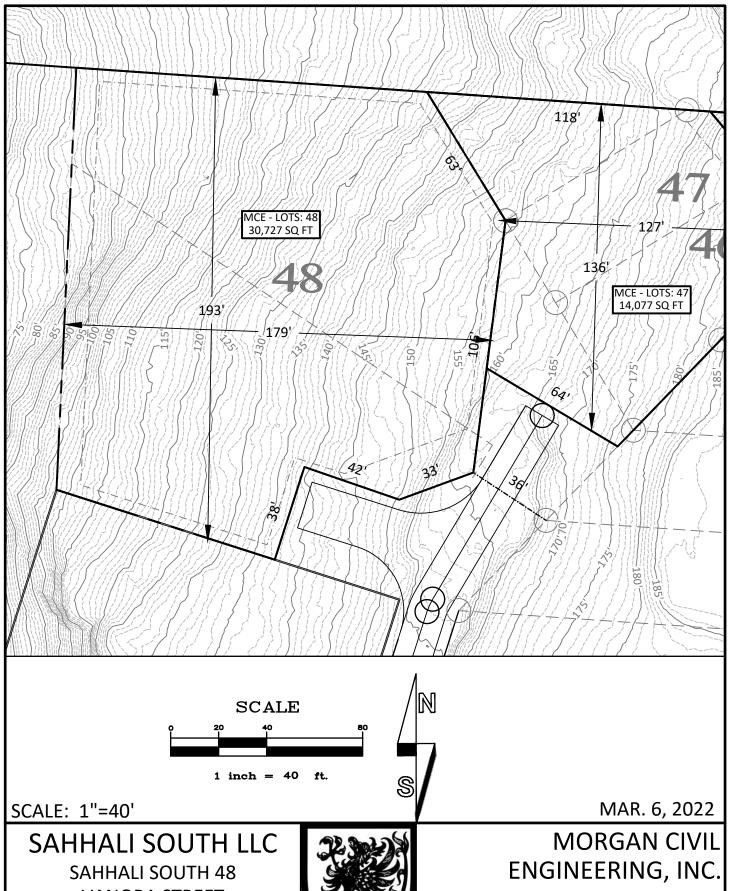
where possible, the side lines of lots shall run at right angles to the street upon which they face, unless a different angle is required to provide optimum solar orientation or is necessary to conform to topography or road orientation.

Tillamook County Comprehensive Plan

Goal 1 The Planning Process

(p. 1-2) The Tillamook County Plan is directed toward the preservation of the County's fundamental rural character reflecting its orientation of lifestyle to the County's natural resources and amenities. ... an extensive mileage of Oregon coastline, create an ideal resource setting for ... recreation and tourism industries. The County plan recognizes that there are problems inherent in the characteristics of an economy so heavily dependent on both natural resource supply and demand. Yet, it emphasizes the benefits to be gained by dealing with these problems in constructive and imaginative ways.

Narrative Date: March 28, 2022; Plan Development, LLC.



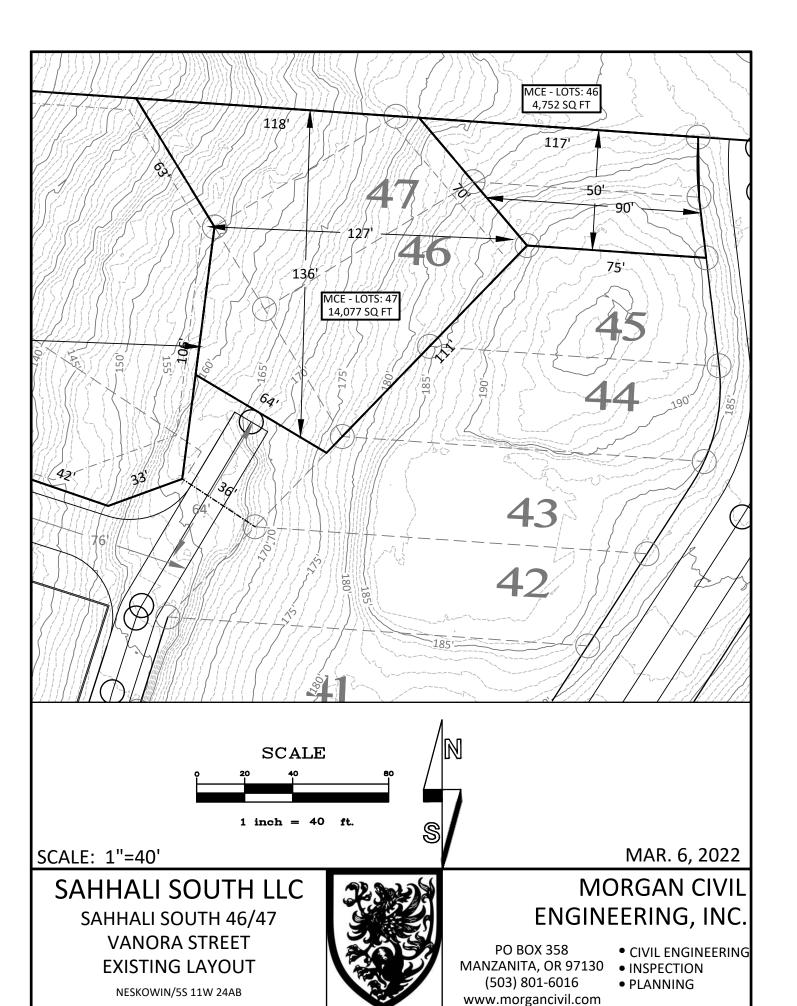
SAHHALI SOUTH 48 VANORA STREET EXISTING LAYOUT

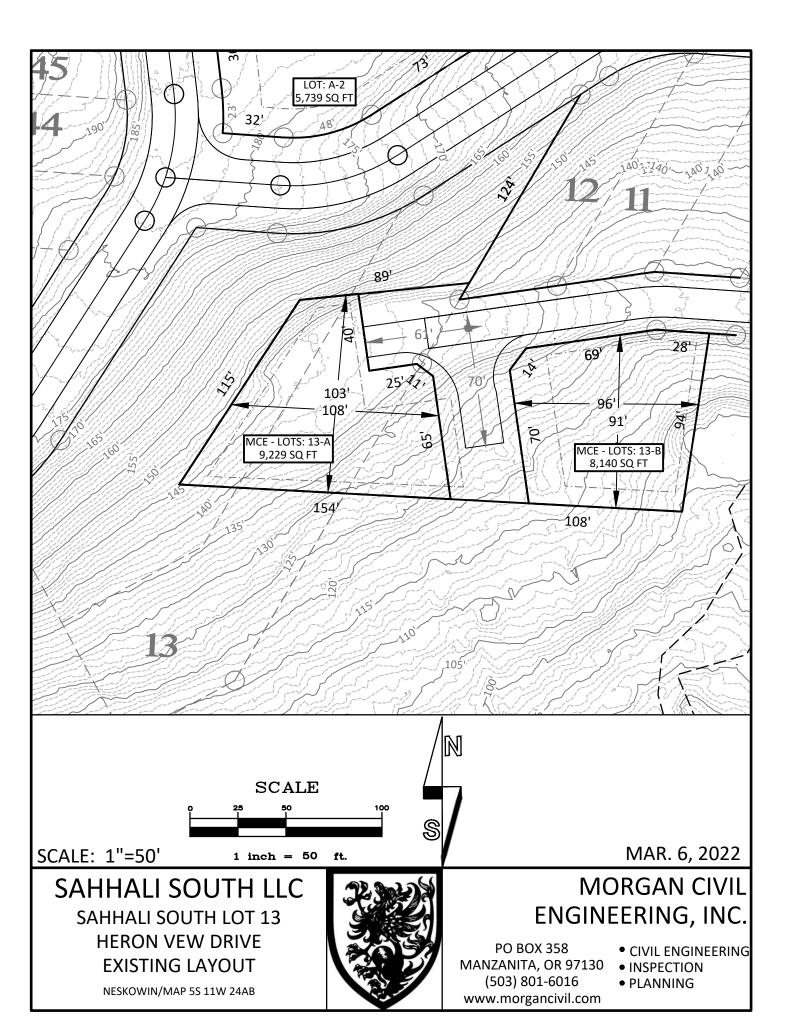
NESKOWIN/5S 11W 24AB

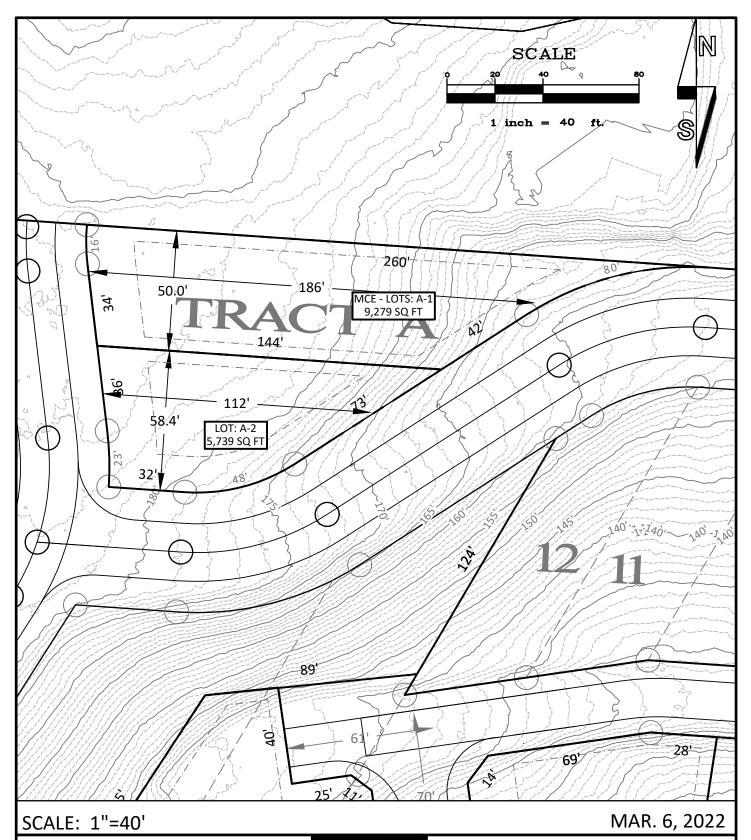


PO BOX 358
MANZANITA, OR 97130
(503) 801-6016
www.morgancivil.com

- CIVIL ENGINEERING
- INSPECTION
- PLANNING







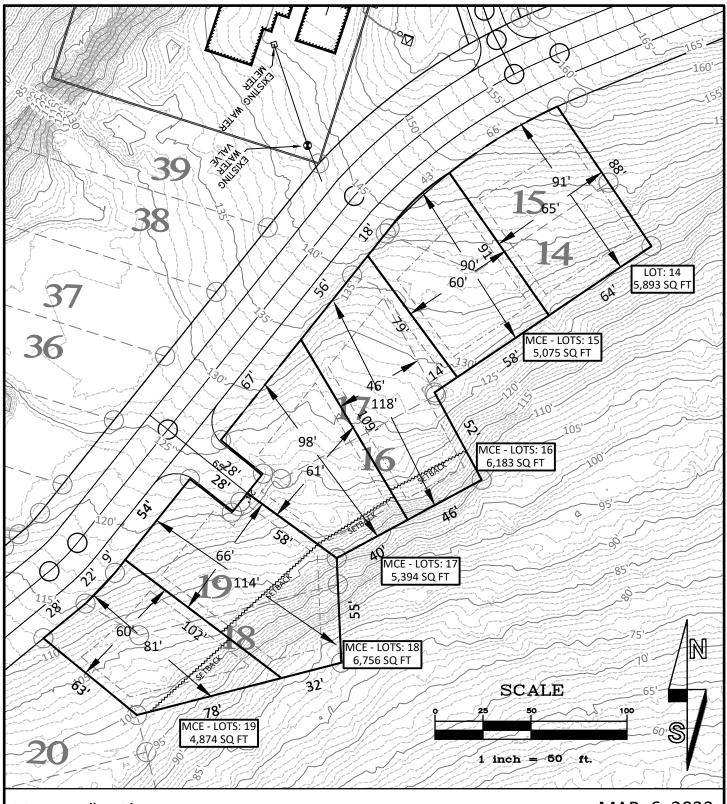
SAHHALI SOUTH TRACT A PROPOSAL POINT DRIVE EXISTING LAYOUT

NESKOWIN/MAP 5S 11W 24AB



MORGAN CIVIL ENGINEERING, INC.

- CIVIL ENGINEERING
- INSPECTION
- PLANNING



SCALE: 1"=50' MAR. 6, 2022

SAHHALI SOUTH LLC

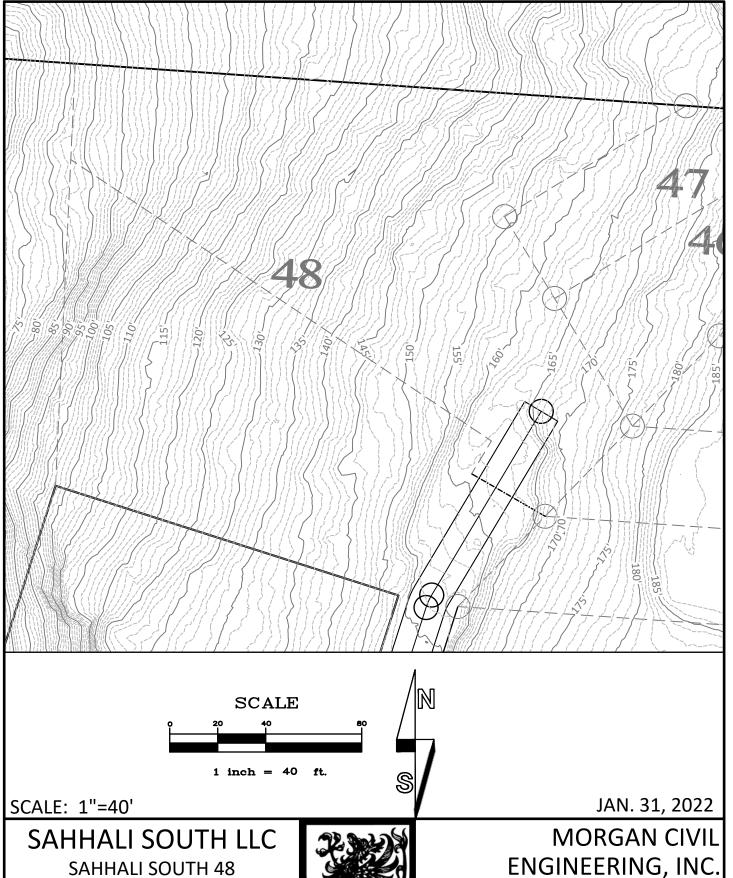
SAHHALI SOUTH LOTS 14-19 PROPOSAL POINT DRIVE EXISTING LAYOUT

NESKOWIN/MAP 5S 11W 24AB



MORGAN CIVIL ENGINEERING, INC.

- CIVIL ENGINEERING
- INSPECTION
- PLANNING



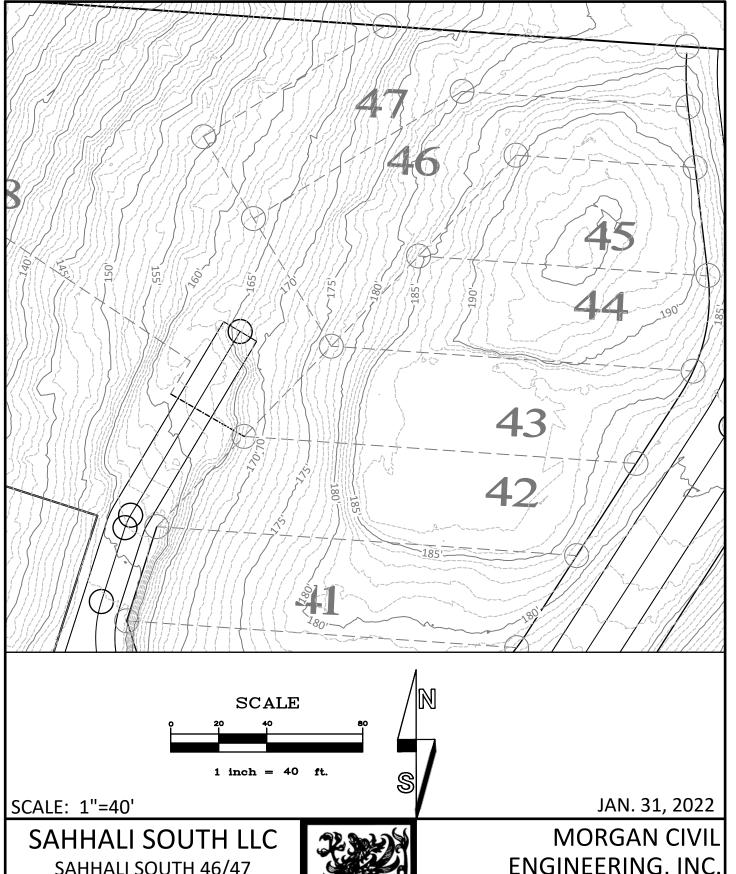
VANORA STREET EXISTING LAYOUT

NESKOWIN/5S 11W 24AB



ENGINEERING, INC.

- CIVIL ENGINEERING
- INSPECTION
- PLANNING



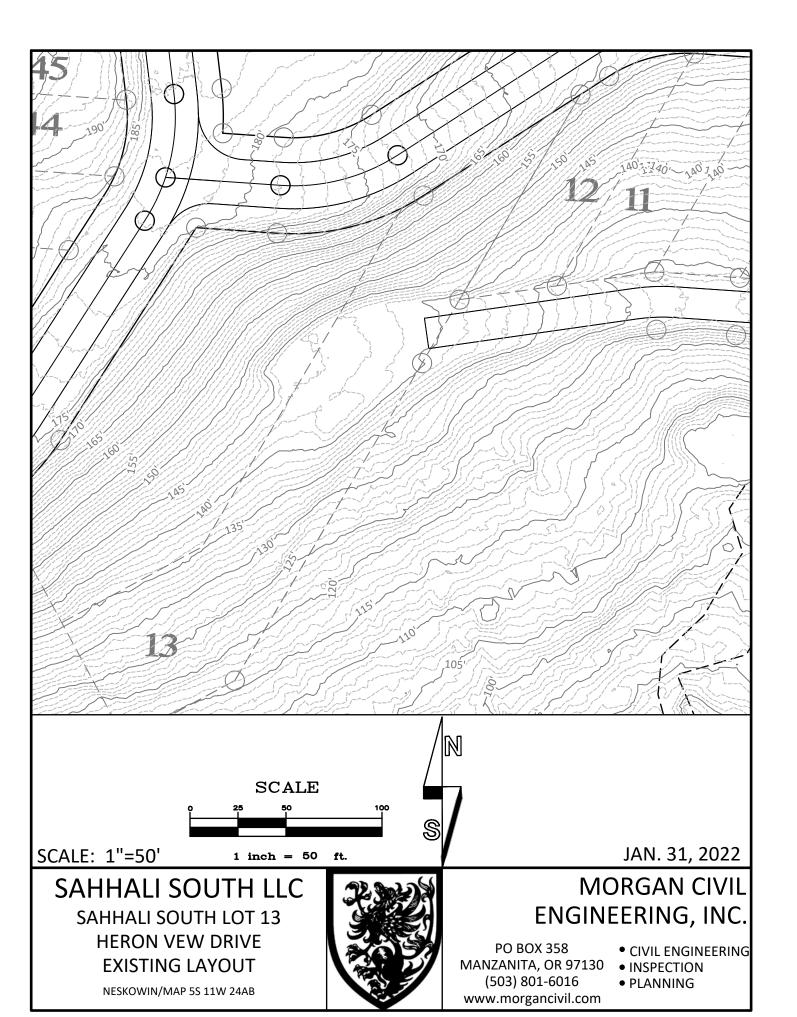
SAHHALI SOUTH 46/47 **VANORA STREET EXISTING LAYOUT**

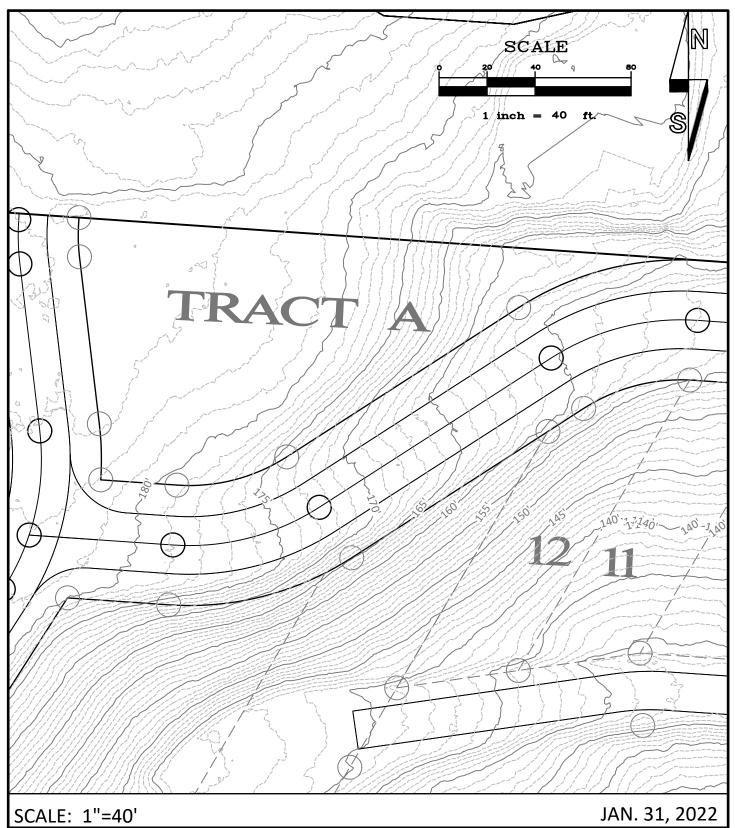
NESKOWIN/5S 11W 24AB



ENGINEERING, INC.

- CIVIL ENGINEERING
- INSPECTION
- PLANNING





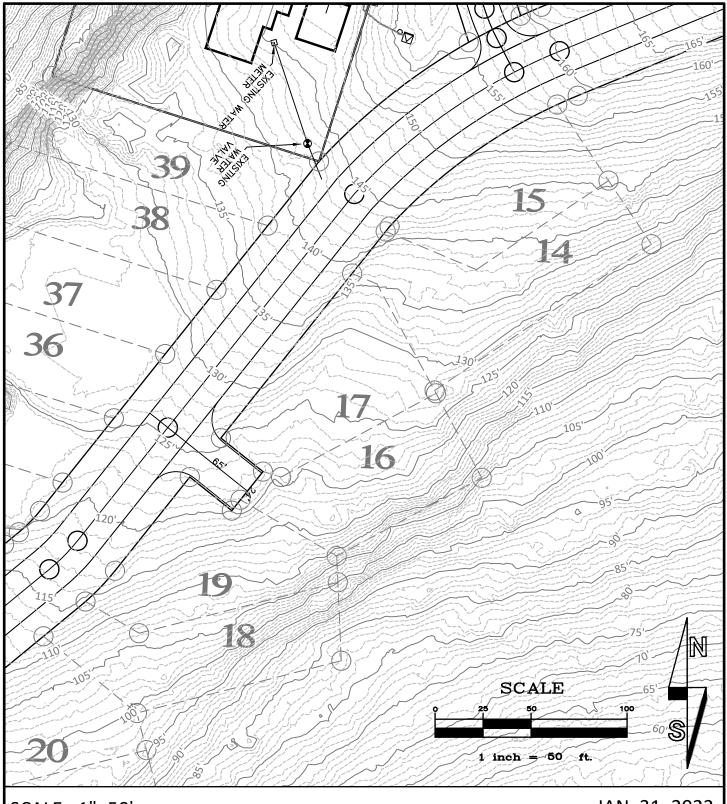
SAHHALI SOUTH TRACT A
PROPOSAL POINT DRIVE
EXISTING LAYOUT

NESKOWIN/MAP 5S 11W 24AB



MORGAN CIVIL ENGINEERING, INC.

- CIVIL ENGINEERING
- INSPECTION
- PLANNING



JAN. 31, 2022 SCALE: 1"=50'

SAHHALI SOUTH LLC **SAHHALI SOUTH LOTS 14-19** PROPOSAL POINT DRIVE

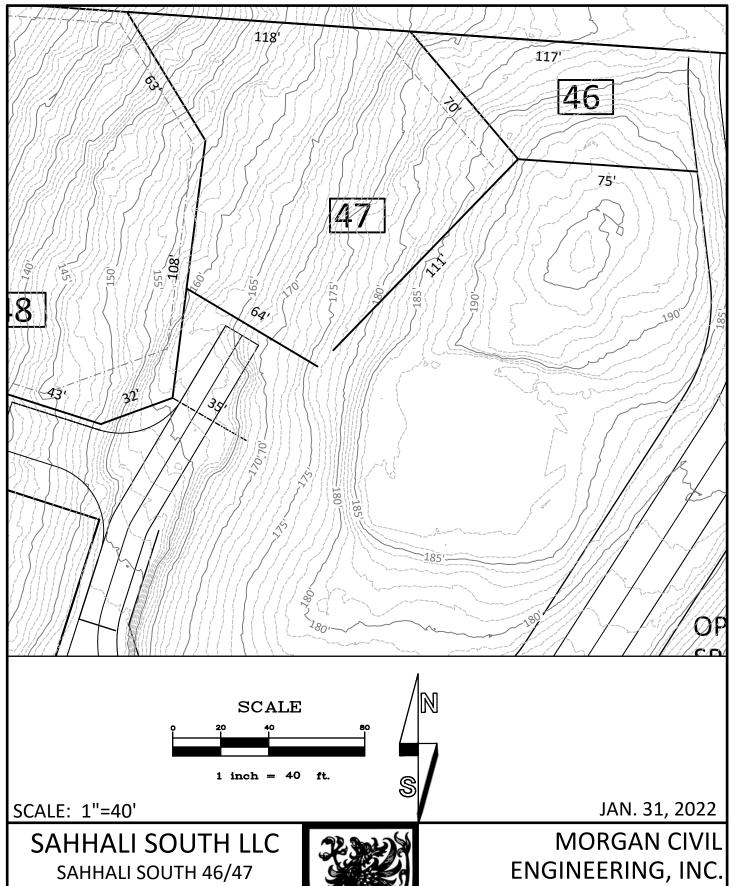
EXISTING LAYOUT

NESKOWIN/MAP 5S 11W 24AB



MORGAN CIVIL ENGINEERING, INC.

- CIVIL ENGINEERING
- INSPECTION
- PLANNING

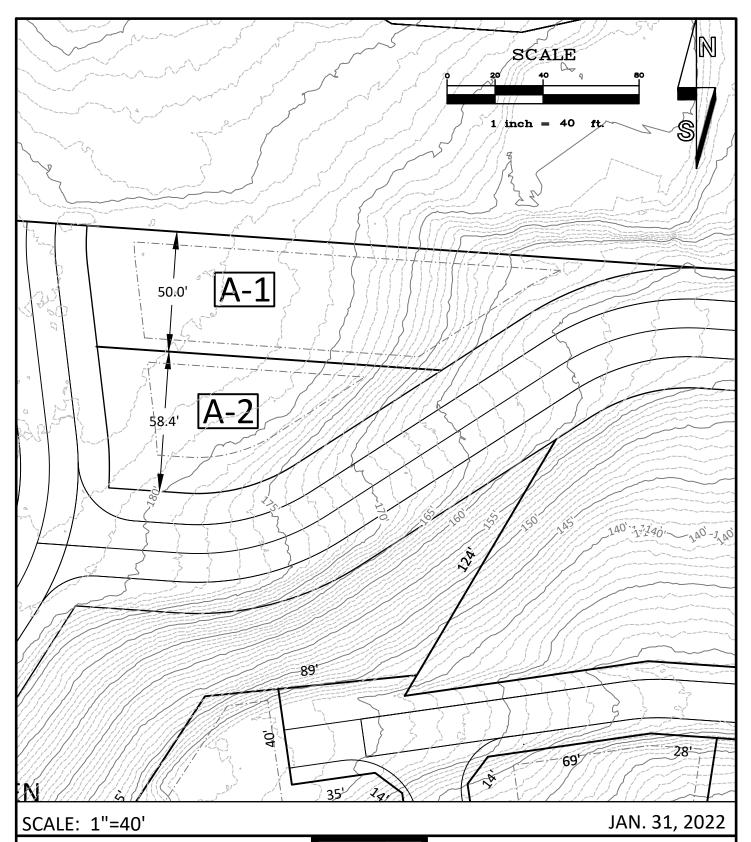


SAHHALI SOUTH 46/47 VANORA STREET PROPOSED LAYOUT

NESKOWIN/5S 11W 24AB



- CIVIL ENGINEERING
- INSPECTION
- PLANNING



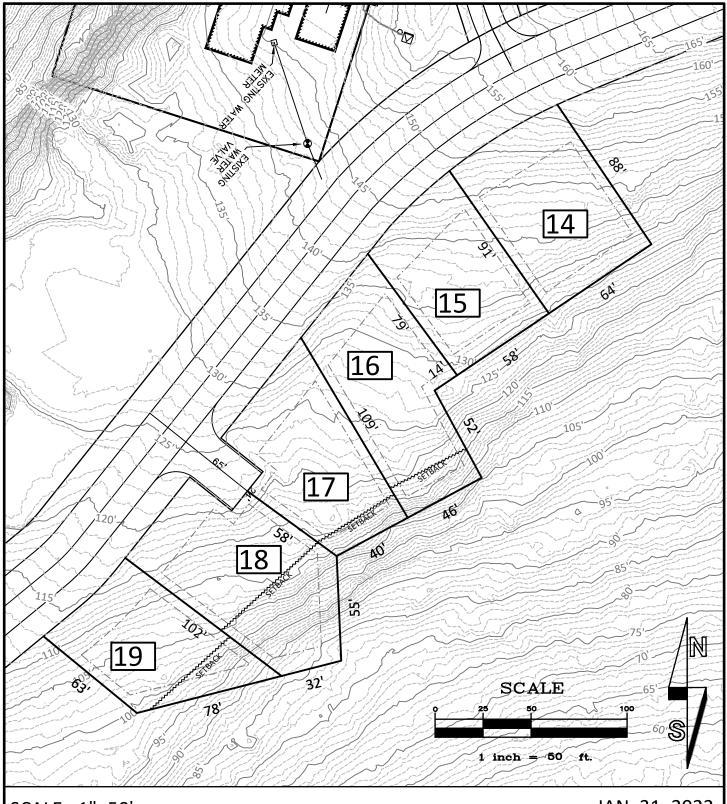
SAHHALI SOUTH TRACT A PROPOSAL POINT DRIVE PROPOSED LAYOUT

NESKOWIN/MAP 5S 11W 24AB



MORGAN CIVIL ENGINEERING, INC.

- CIVIL ENGINEERING
- INSPECTION
- PLANNING



SCALE: 1"=50' JAN. 31, 2022

SAHHALI SOUTH LLC

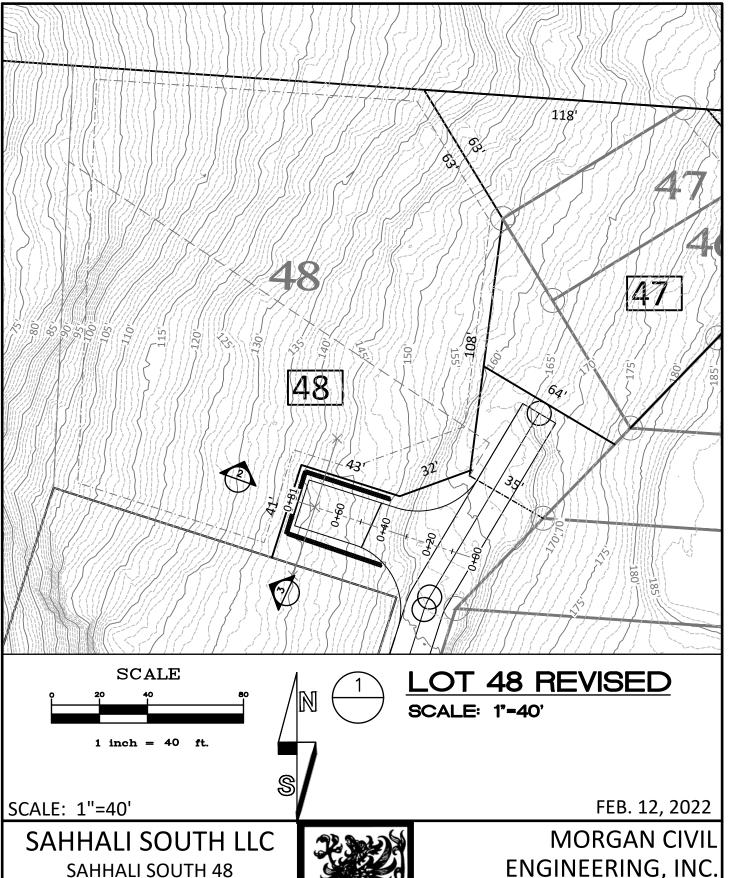
SAHHALI SOUTH LOTS 14-19 PROPOSAL POINT DRIVE PROPOSED LAYOUT

NESKOWIN/MAP 5S 11W 24AB



MORGAN CIVIL ENGINEERING, INC.

- CIVIL ENGINEERING
- INSPECTION
- PLANNING



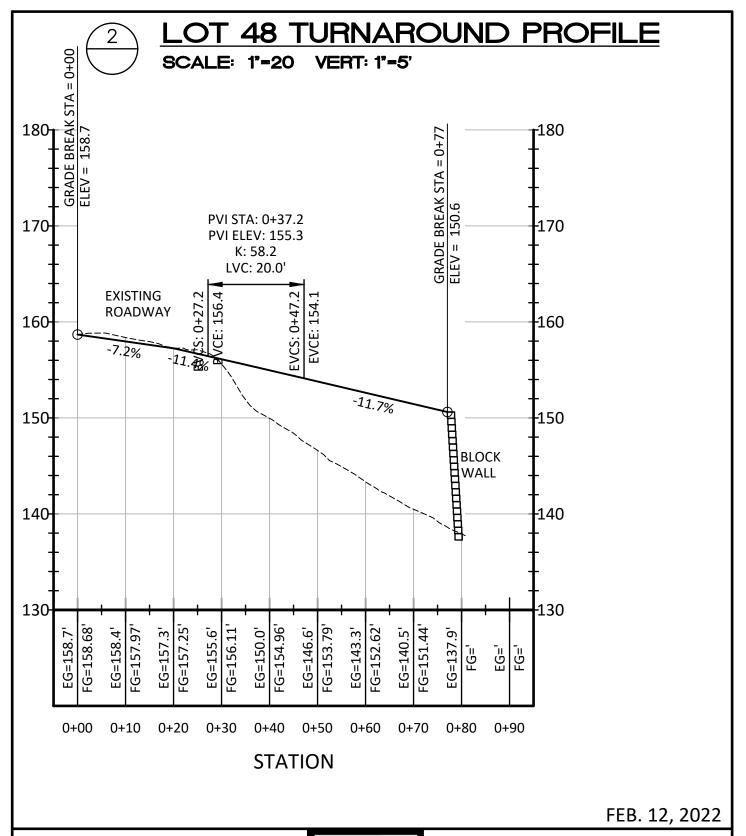
VANORA STREET EXISTING LAYOUT

NESKOWIN/5S 11W 24AB



ENGINEERING, INC.

- CIVIL ENGINEERING
- INSPECTION
- PLANNING



SAHHALI SOUTH LOT 48 VEHILCE TURNAROUND PROFILE

NESKOWIN/5S 11W 24AB



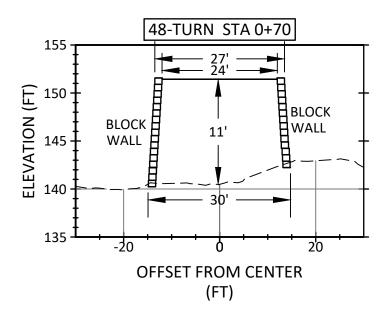
MORGAN CIVIL ENGINEERING, INC.

- CIVIL ENGINEERING
- INSPECTION
- PLANNING



LOT 48 TURNAROUND CROSS-SECTION

SCALE: 1"=20 VERT: 1"=10"



FEB. 12, 2022

SAHHALI SOUTH LLC

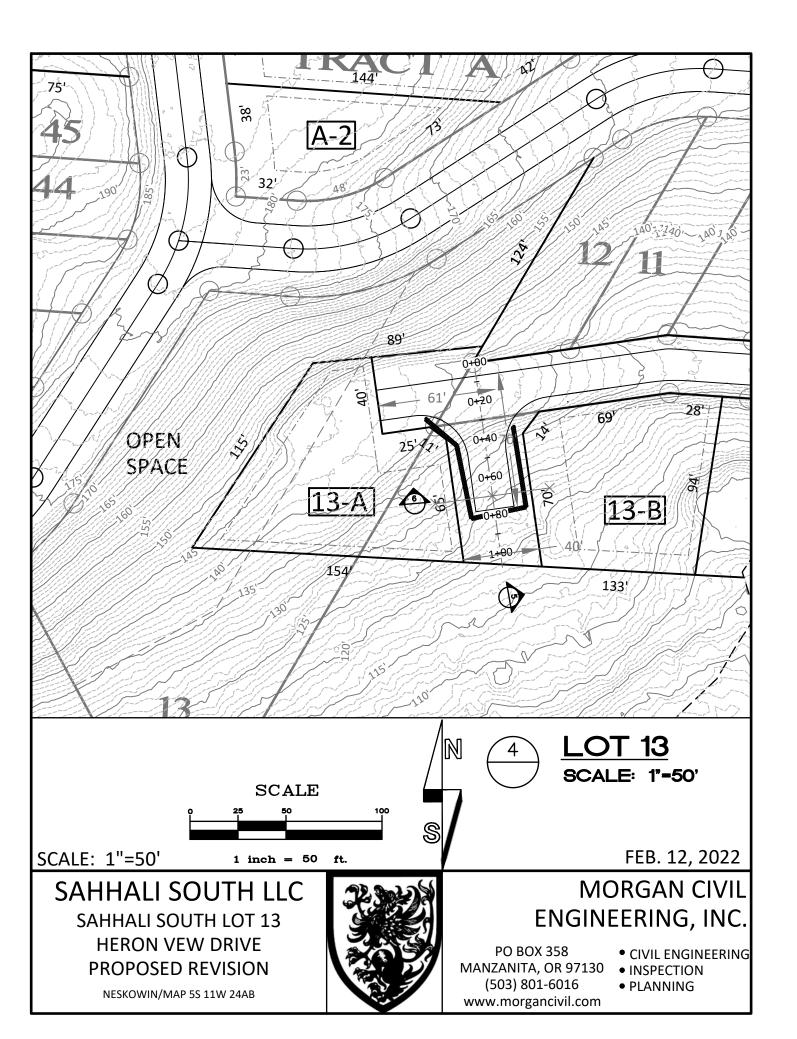
SAHHALI SOUTH LOT 48 VEHICLE TURNAROUND CROSS-SECTION

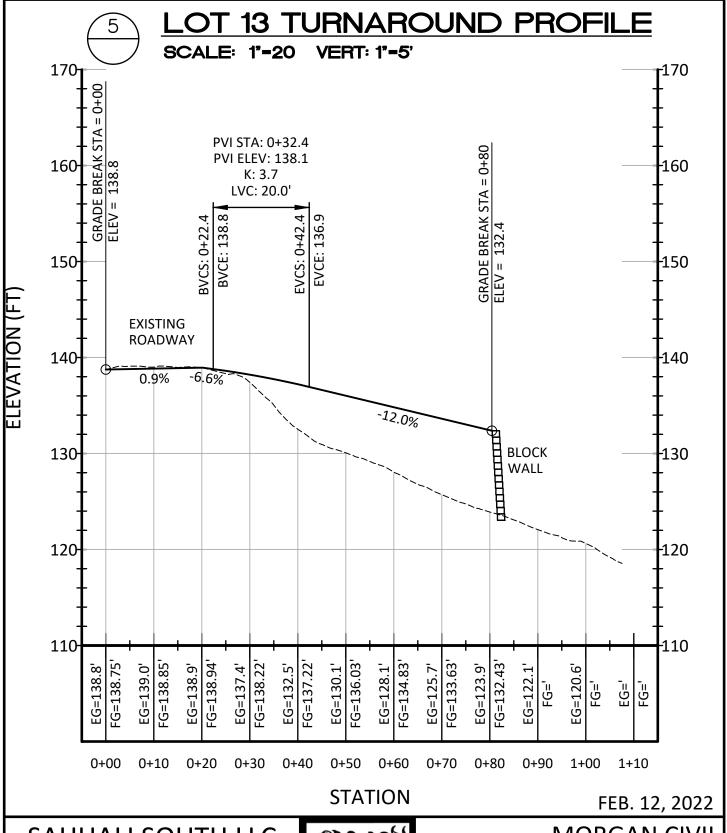
NESKOWIN/5S 11W 24AB



MORGAN CIVIL ENGINEERING, INC.

- CIVIL ENGINEERING
- INSPECTION
- PLANNING





SAHHALI SOUTH 13 VEHICLE TURNAROUND PROFILE

NESKOWIN/5S 11W 24AB



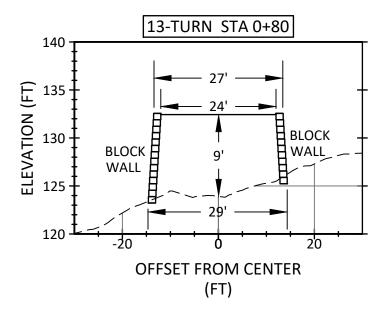
MORGAN CIVIL ENGINEERING, INC.

- CIVIL ENGINEERING
- INSPECTION
- PLANNING



LOT 13 TURNAROUND CROSS-SECTION

SCALE: 1"=20 VERT: 1"=10"



FEB. 12, 2022

SAHHALI SOUTH LLC

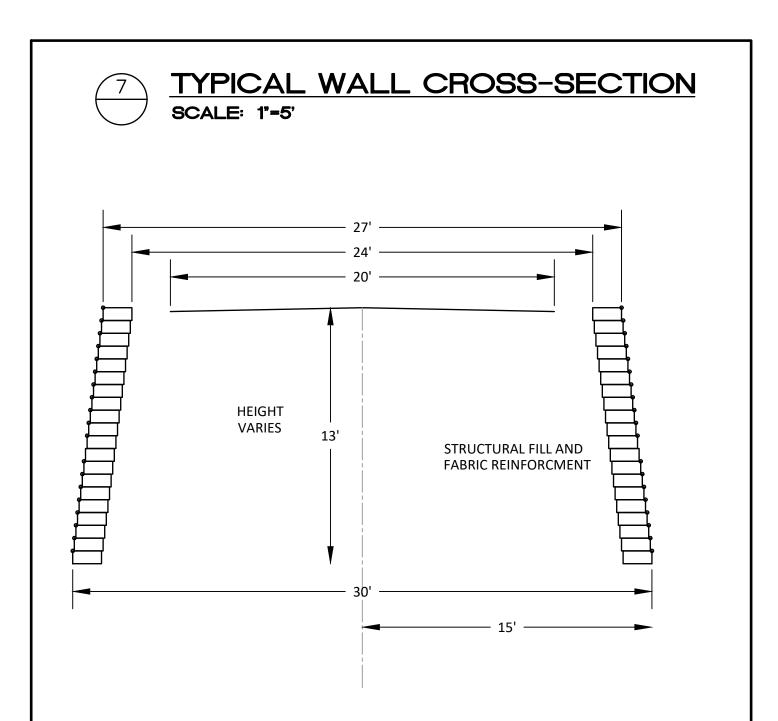
SAHHALI SOUTH 13 VEHICLE TURNAROUND CROSS-SECTION

NESKOWIN/5S 11W 24AB



MORGAN CIVIL ENGINEERING, INC.

- CIVIL ENGINEERING
- INSPECTION
- PLANNING



FEB. 12, 2022

SAHHALI SOUTH LLC

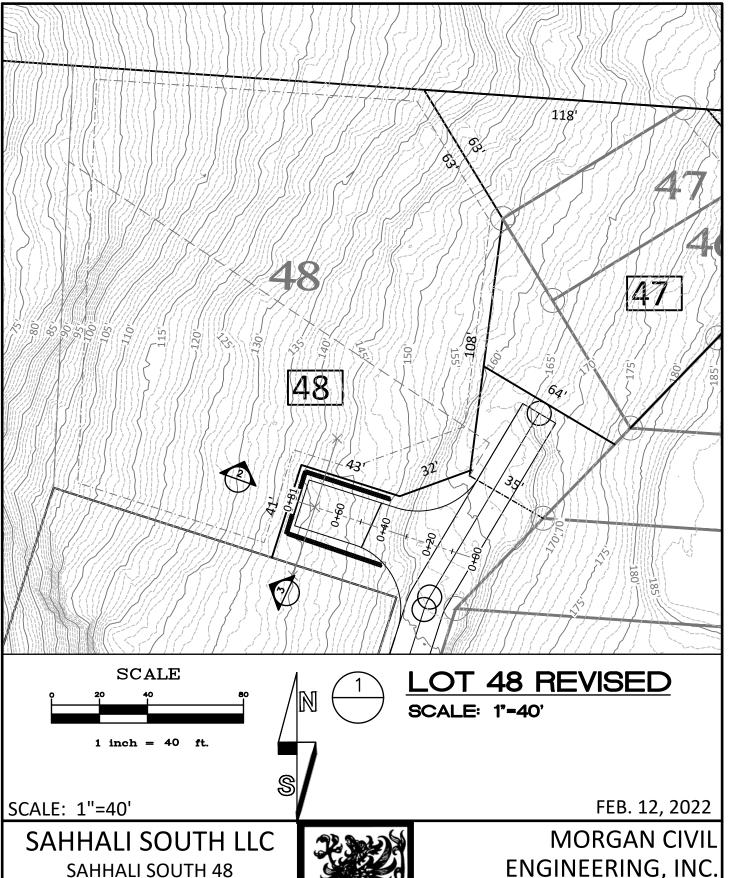
SAHHALI SOUTH **VEHICLE TURNAROUND TYPICAL CROSS-SECTION**

NESKOWIN/5S 11W 24AB



MORGAN CIVIL ENGINEERING, INC.

- CIVIL ENGINEERING
- PLANNING



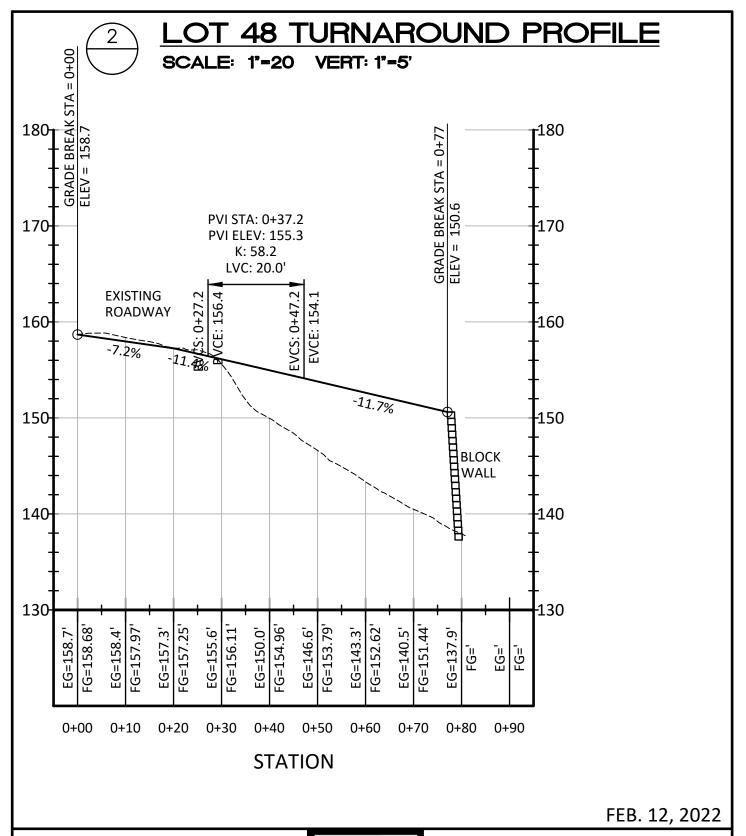
VANORA STREET EXISTING LAYOUT

NESKOWIN/5S 11W 24AB



ENGINEERING, INC.

- CIVIL ENGINEERING
- INSPECTION
- PLANNING



SAHHALI SOUTH LOT 48 VEHILCE TURNAROUND PROFILE

NESKOWIN/5S 11W 24AB



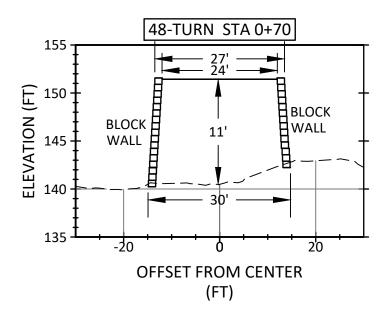
MORGAN CIVIL ENGINEERING, INC.

- CIVIL ENGINEERING
- INSPECTION
- PLANNING



LOT 48 TURNAROUND CROSS-SECTION

SCALE: 1"=20 VERT: 1"=10"



FEB. 12, 2022

SAHHALI SOUTH LLC

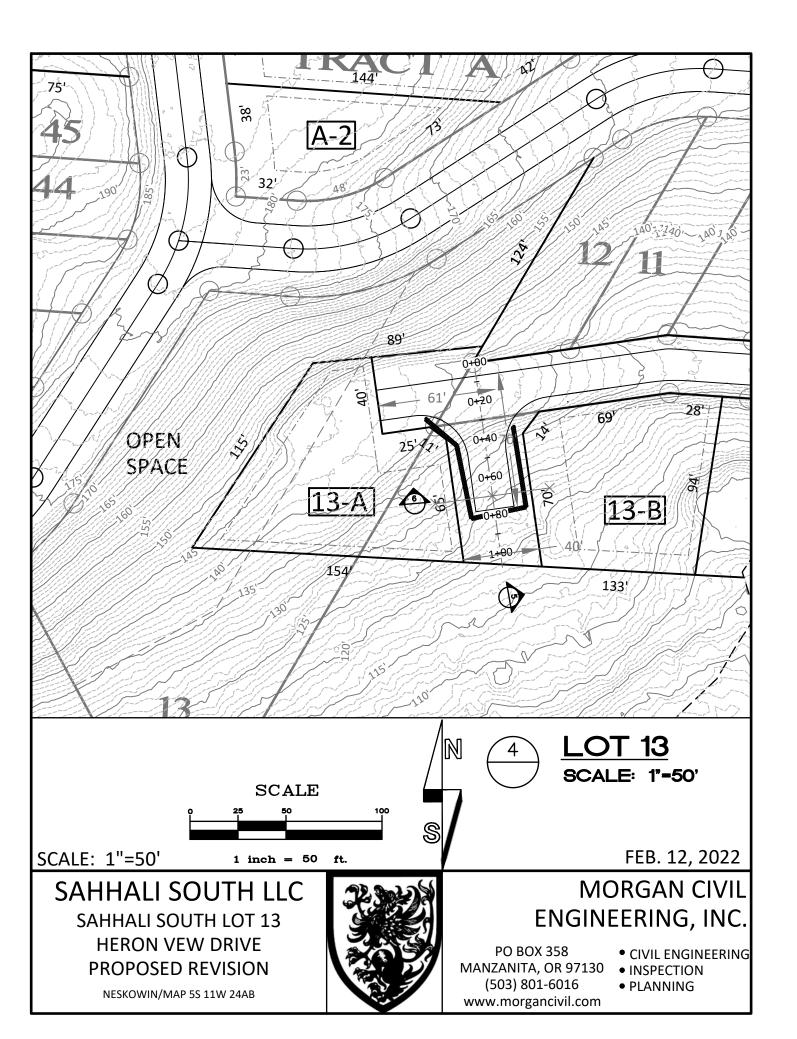
SAHHALI SOUTH LOT 48 VEHICLE TURNAROUND CROSS-SECTION

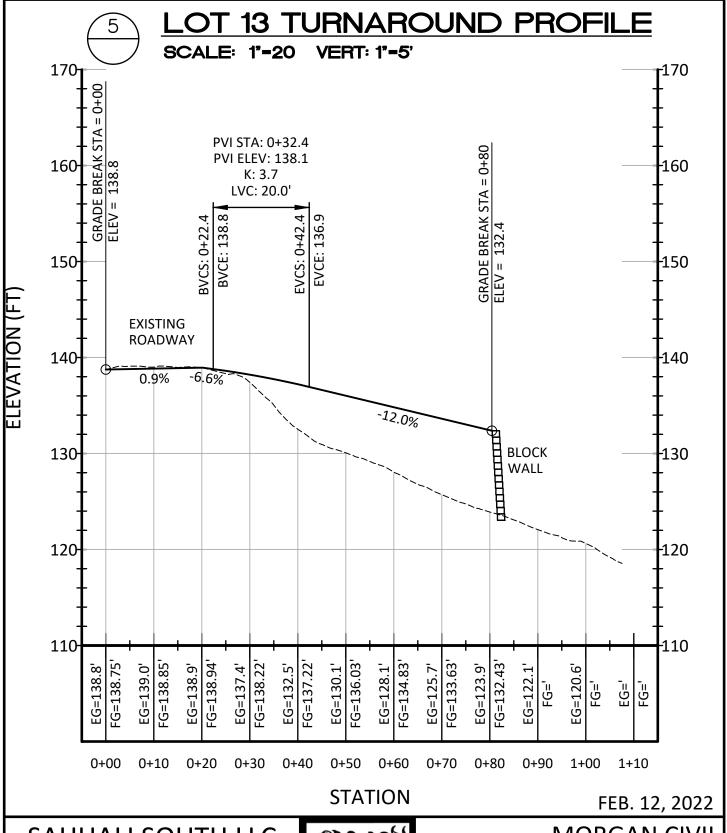
NESKOWIN/5S 11W 24AB



MORGAN CIVIL ENGINEERING, INC.

- CIVIL ENGINEERING
- INSPECTION
- PLANNING





SAHHALI SOUTH 13 VEHICLE TURNAROUND PROFILE

NESKOWIN/5S 11W 24AB



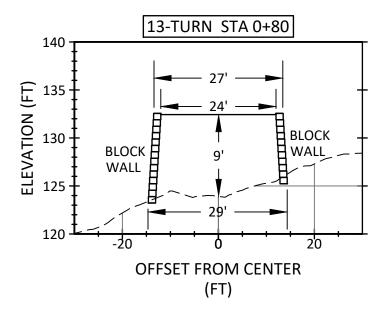
MORGAN CIVIL ENGINEERING, INC.

- CIVIL ENGINEERING
- INSPECTION
- PLANNING



LOT 13 TURNAROUND CROSS-SECTION

SCALE: 1"=20 VERT: 1"=10"



FEB. 12, 2022

SAHHALI SOUTH LLC

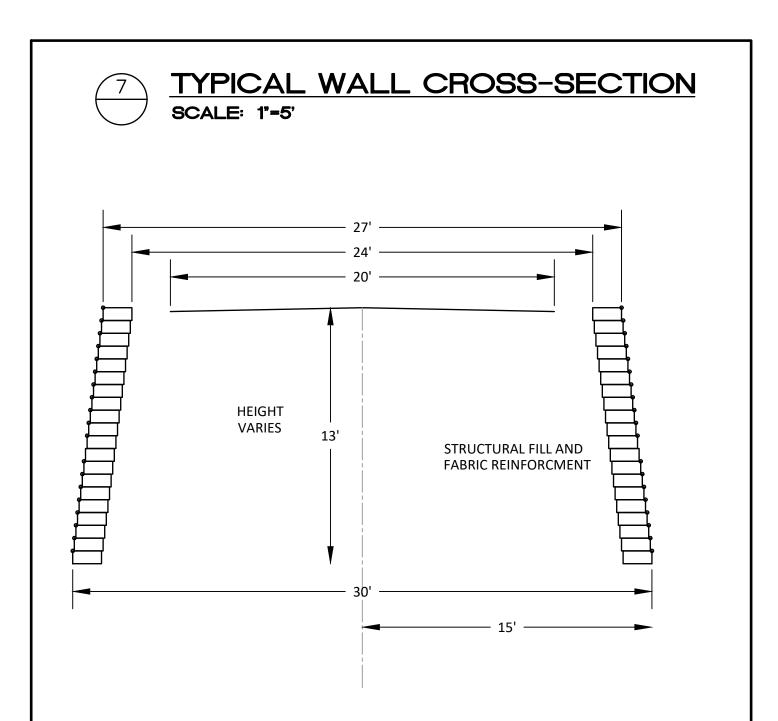
SAHHALI SOUTH 13 VEHICLE TURNAROUND CROSS-SECTION

NESKOWIN/5S 11W 24AB



MORGAN CIVIL ENGINEERING, INC.

- CIVIL ENGINEERING
- INSPECTION
- PLANNING



FEB. 12, 2022

SAHHALI SOUTH LLC

SAHHALI SOUTH **VEHICLE TURNAROUND TYPICAL CROSS-SECTION**

NESKOWIN/5S 11W 24AB



MORGAN CIVIL ENGINEERING, INC.

- CIVIL ENGINEERING
- PLANNING



Neskowin Regional Water District

PO Box 823 Neskowin, OR 97149 Phone: (503)392-3966

Email: tnt@neskowinwater.com Web: www.neskowinwater.com

To: Tillamook County Planning Dept.

Re: Sahhali South Subdivision Water availability

The Neskowin Water District (NRWD) has no issue with the proposed one lot net increase in water use in the Sahhali South Subdivision. As the District understands it, the additional lot is the result of a consolidation of Lots 48a and 48b and the division of Tract A into two buildable lots. This should increase water demand by the subdivision a negligible amount. Water is and will be available for all lots in the Sahhali South subdivision.

Signed

Troy N. Trute

G.M of the Neskowin Regional Water District

Smits & Associates, Inc.

990 Newport Avenue Imbler, OR 97841-9706 (541) 537-0382 Fax (541) 972-8671 email: john.smits.associates@gmail.com

To: Sahhali South Homeowners Association

Attn: Richard Boyles & Patti Lundeen

From: John L. Smits, REHS

Smits & Associates, Inc.

Date: December 3, 2021

Re: Sewage Treatment & Disposal System

DEQ Water Pollution Control Facilities Permit

WPCF Permit No. 102860 (Attached)

DEQ File No. 114460 Tillamook County

You indicated that there are plans to reconfigure the Sahhali South Subdivision. The reconfiguration will result in one (1) additional lot, bringing the total to fifty-nine (59). You asked my opinion, as the designer of the system, if the collection, treatment and drainfield system has the capacity to serve the additional.

The system was constructed in 2006 and 2007. The system was designed, permitted and installed to serve all fifty-eight (58) lots anticipating the generation of up to 17,400 gallons of domestic wastewater per day (gpd). The expected average gpd is set by DEQ permit at 8,700 gpd. The first townhouses connected to the system in 2008. Since that time additional units have slowly connected to the system with the total to date at seventeen (17) units.

The generation of wastewater by the seventeen (17) units is very low, apparently due to the fulltime occupants being mostly single, senior women and the remaining homes being used only on an occasional basis. The monthly average flows to the treatment system and drainfield component are listed here:

June: 1,053 gpd; July: 1,101 gpd; August: 1,258 gpd.; September: 1,332 gpd and October: 844 gpd.

The average daily flow is 10 to 15% of the average flow expected at buildout and is generate by about 29% of 59 lots that have been developed.

Clearly, the existing system has sufficient hydraulic capacity to serve fifty-nine (59) total lots.

If you find that you have additional questions, please feel welcome to contact me by email of cell phone.

Subject: Re: Reconfiguration of Lots in Sahhali South Subdivision

Date: November 23, 2021 at 8:26 AM

To: JOYE Jessica * DEQ jessica.joye@deq.state.or.us

Cc: JOYE Jessica Jessica.JOYE@state.or.us, Richard Boyles rboyles@meretehotels.com, Patti Lundeen plundeen@sycan.com,

Sabrina Pearson (plandevelopment@msn.com) plandevelopment@msn.com

Thank you Jessica!

On Tue, Nov 23, 2021 at 9:16 AM JOYE Jessica * DEQ <jessica.joye@deq.state.or.us> wrote:

John,

I have no concerns with an additional lot being added to Sahhali South for reasons you described below.

Thanks.

Jessica Joye, REHS

DEQ NW Region and Marion County

Onsite Wastewater Management Specialist

4026 Fairview Industrial Drive SE

Salem, OR 97302

503.378.5033

Jessica.joye@deq.state.or.us

From: John Smits < john.smits.associates@gmail.com >

Sent: Monday, November 22, 2021 10:30 AM

To: JOYE Jessica < <u>Jessica.JOYE@state.or.us</u>>; Richard Boyles

<rboyles@meretehotels.com>; Patti Lundeen <plundeen@sycan.com>; Sabrina

Pearson (plandevelopment@msn.com) <plandevelopment@msn.com>

Subject: Reconfiguration of Lots in Sahhali South Subdivision

Jessica,

Richard Boyles, developer of Sahhali South contacted me regarding

a plan to make the lots in the subdivision more marketable by reconfiguring JS

the lots. I can send you the narrative description and the proposed changes to the lots if that is helpful.

The reconfiguration will result in one additional lot when approved by Tillamook

County. I am tasked with preparing a letter indicating to Tillamook County that the WPCF permitted collection, treatment and soil dispersal system has the capacity to serve an additional lot.

After 14 years of development, there is one single family home and 16 townhouse units served by the system. Flow to the drainfield of late is as follows: June: 1,053 gpd; July: 1,101 gpd,

August: 1,258 gpd., September: 1,332 gpd and October: 844 gpd. While this seems to be abnormally low, operator Richard Taylor indicates the population on a full time basis is eight (8) senior, retired females.

Richard told me the primary dose tank flow and the final dose tank flow readings are in close agreement.

The WPCF permit no longer lists the number of lots to

be served, but simply lists the maximum allowable flow of 17,400 gpd with an expected average of 50% of that volume.

I believe it's obvious that the system has the hydraulic capacity to serve the reconfigured subdivision and one (1) additional lot.

As the large treatment system is so lightly loaded, it is not likely to meet the current permit limits until the flow and nutrient supply to the treatment organisms increases substantially, or the permit is modified or the compliance options proposed last April are accepted and implemented.

I think Tillamook County may include as a condition of final plat approval that the additional lot not be allowed to be developed until such time as DEQ indicates all conditions of the permit are being met.

Please let me know if you have any concerns with this as Tillamook County will ask for your input.

--

Smits & Associates, Inc.

John L. Smits, REHS

990 Newport Avenue

Imbler, OR 97841-9706

john.smits.associates@gmail.com

(C) 541-537-0392

--

Smits & Associates, Inc. John L. Smits, REHS 990 Newport Avenue Imbler, OR 97841-9706 john.smits.associates@gmail.com

(C) 541-537-0392

Subject: Re: WN2022-0081 Response to Local Case File #851-22-000003-PLNG

Date: March 8, 2022 at 10:52 AM

To: Richard Boyles rboyles@meretehotels.com, Bobbi Kearney bkearney@meretehotels.com

Cc: Patti Lundeen plundeen@sycan.com, Sabrina Pearson (plandevelopment@msn.com) plandevelopment@msn.com

Richard,

I would assume that as well. If you do not own the lot and you are not planning to build on it, I don't see why you would be responsible for a wetland delineation on that lot, even if one is needed prior to building.

Tori

From: Richard Boyles <rboyles@meretehotels.com>

Sent: Tuesday, March 8, 2022 10:44:57 AM

To: Tori Bennett <torib@evren-nw.com>; Bobbi Kearney <bkearney@meretehotels.com>

Cc: Patti Lundeen <plundeen@sycan.com>; Sabrina Pearson (plandevelopment@msn.com) <plu>plandevelopment@msn.com>

Subject: FW: WN2022-0081 Response to Local Case File #851-22-000003-PLNG

Tori,

To be absolutely clear, the map shows lots which are owned by Sahhali South/Sycan B Corp and are undisturbed (no home constructed.) There are few lots which have been sold and have not been built on. I believe that we are not required to have a wetland study done for lots which we do not own.

Bobbi,

Please prepare the attached for DocuSign.

Richard Boyles | President Sycan B Corp. 840 Beltline Rd., Ste 202 | Springfield, OR 97477 rboyles@sycan.com 541 284-0613 | Fax 541 746-2590



From: Tori Bennett <torib@evren-nw.com> Sent: Monday, March 7, 2022 4:20 PM

To: Patti Lundeen <plundeen@sycan.com>; Richard Boyles

<rboyles@meretehotels.com>

Cc: Bobbi Kearney bkearney@meretehotels.com; Sabrina Pearson

(plandevelopment@msn.com) <plandevelopment@msn.com>

Subject: RE: WN2022-0081 Response to Local Case File #851-22-000003-PLNG

ТВ

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Hi all,

Attached is the revised proposal to include all lots that have yet to be disturbed. Please let me know if you have any additional revisions or questions. Thanks so much.

Victoria Bennett

EVREN Northwest, Inc. Portland, Oregon 97293 (503) 452-5561

This communication may contain privileged and/or confidential information. It is intended solely for the use of the addressee. If you are not the intended recipient, you are strictly prohibited from disclosing, copying, distributing or using any of this information. If you received this communication in error, please contact the sender immediately and destroy the material in its entirety, whether electronic or hard copy. This communication may contain nonpublic personal information about consumers subject to the restrictions of the Gramm-Leach-Bliley Act. You may not directly or indirectly reuse or redisclose such information for any purpose other than to provide the services for which you are receiving the information.

From: Patti Lundeen <<u>plundeen@sycan.com</u>>

Sent: Monday, March 07, 2022 12:08 PM

To: Tori Bennett < torib@evren-nw.com >; Richard Boyles < rboyles@meretehotels.com >

Cc: Bobbi Kearney bkearney@meretehotels.com>; Sabrina Pearson

(plandevelopment@msn.com) <plandevelopment@msn.com>

Subject: RE: WN2022-0081 Response to Local Case File #851-22-000003-PLNG

Hello all:

I have spoken with Tori this morning to confirm the proposed WDR lot #'s in the report received this morning, as Daniel Evans comment to me indicating that "we need to complete a new FULL WDR, and not piece meal it".

The attached report provides the lots highlighted IN PINK that are <u>IN ADDITION to the proposal report</u> received this morning.

Like the other lots in the proposal, these additional lots have utilities, roads and are ready to sell. The additional lots are the remaining lots to be sold in the development, the land has NOT been disturbed, and DO NOT have a structure on them.

Additional lots: Sahhali North lots 1,4 and 5. Sahhali South lots: 1-6,11,12,20-25,30,31,38-41.

Located off of Hwy 101: 50-56

NOTE: Again, ALL lots in the development have completed roadways and utilities.

Sincerely,

Patti Lundeen

Property Manager SYCAN B CORP

840 Beltline Rd, Ste 100 (physical) Ste 202(mailing) | Springfield, OR 97477

Plundeen@sycan.com | www.meretehotels.com

OFFICE: 541.284.0612| FAX 541.746.2590



Look for the good.

This message is solely for the use of the intended recipient. This message is confidential, and may contain legally-privileged information. If you are not the intended recipient, be aware that any review, disclosure, copying, distribution, reliance upon or use of the contents of this message is strictly prohibited. If you have received this message in error, please destroy it and notify me immediately. Thank you.

From: Tori Bennett < torib@evren-nw.com > Sent: Monday, March 7, 2022 11:03 AM

To: Patti Lundeen cplundeen@sycan.com; Richard Boyles

<rboyles@meretehotels.com>

Cc: Bobbi Kearney < bkearney@meretehotels.com >; Sabrina Pearson

(plandevelopment@msn.com) <plandevelopment@msn.com>

Subject: RE: WN2022-0081 Response to Local Case File #851-22-000003-PLNG

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Hi all,

Attached is a proposal for this work. Please let me know if you have any questions. I have attached a pdf with an aerial showing the study area outlined in red, as we understand it. Please review and let me know if any revisions are needed.

Victoria Bennett

EVREN Northwest, Inc. Portland, Oregon 97293 (503) 452-5561

This communication may contain privileged and/or confidential information. It is intended solely for the use of the addressee. If you are not the intended recipient, you are strictly prohibited from disclosing, copying, distributing or using any of this information. If you received this communication in error, please contact the sender immediately and destroy the material in its entirety, whether electronic or hard copy. This communication may contain nonpublic personal information about consumers subject to the restrictions of the Gramm-Leach-Bliley Act. You may not directly or indirectly reuse or redisclose such information for any purpose other than to provide the services for which you are receiving the information.

From: Patti Lundeen <plundeen@sycan.com</pre>
Sent: Thursday. March 03, 2022 6:03 PM

To: Tori Bennett < torib@evren-nw.com >; Richard Boyles < rboyles@meretehotels.com >

Cc: Bobbi Kearney < bkearney@meretehotels.com >; Sabrina Pearson

(plandevelopment@msn.com) <plandevelopment@msn.com>

Subject: RE: WN2022-0081 Response to Local Case File #851-22-000003-PLNG

Hello all:

The attached covers lots: 13a, 13b, 14-19, 46, 47, and 48a & 48b.

This is a VERY ROUGH drawn in estimate of the subject lots on the application. Not accurate in any way, I also added the map from the website that maybe helpful to dial in the rough lot areas, you are looking for on the google earth map.

As Richard expressed, the groundwork has been done for the development, no new utilities on the requested application for these lots.

Sincerely,

Patti Lundeen

Property Manager SYCAN B CORP

840 Beltline Rd, Ste 100 (physical) Ste 202(mailing) | Springfield, OR 97477

Plundeen@sycan.com | www.meretehotels.com

OFFICE: 541.284.0612| FAX 541.746.2590



Look for the good.

This message is solely for the use of the intended recipient. This message is confidential, and may contain legally-privileged information. If you are not the intended recipient, be aware that any review, disclosure, copying, distribution, reliance upon or use of the contents of this message is strictly prohibited. If you have received this message in error, please destroy it and notify me immediately. Thank you.

From: Tori Bennett < torib@evren-nw.com > Sent: Thursday, March 3, 2022 2:54 PM

To: Richard Boyles <<u>rboyles@meretehotels.com</u>>; Patti Lundeen

<plundeen@sycan.com>

Cc: Bobbi Kearney < bkearney@meretehotels.com >; Sabrina Pearson

(plandevelopment@msn.com) <plandevelopment@msn.com>

Subject: Re: WN2022-0081 Response to Local Case File #851-22-000003-PLNG

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

I think just a general estimate would work for us for now. It's mostly for getting an accurate estimate at the moment.

Eram: Dishard Daylos arhaylos @maratahatala sams

FIUIII. RICHARU DOYIES < IDOYIES WITHER ELECTRICES. COITI >

Sent: Thursday, March 3, 2022 2:49:10 PM

To: Tori Bennett < torib@evren-nw.com >; Patti Lundeen < plundeen@sycan.com >

Cc: Bobbi Kearney bkearney@meretehotels.com>; Sabrina Pearson

(<u>plandevelopment@msn.com</u>) <<u>plandevelopment@msn.com</u>>

Subject: RE: WN2022-0081 Response to Local Case File #851-22-000003-PLNG

Patti could make a best attempt, but it would be inherently inaccurate. We don't have the tools to do a scaled overlay.

Richard Boyles | President Sycan B Corp. 840 Beltline Rd., Ste 202 | Springfield, OR 97477 rboyles@sycan.com 541 284-0613 | Fax 541 746-2590



From: Tori Bennett < torib@evren-nw.com > Sent: Thursday, March 3, 2022 2:40 PM

To: Patti Lundeen <plundeen@sycan.com>; Richard Boyles

<rboyles@meretehotels.com>

Cc: Bobbi Kearney bkearney@meretehotels.com; Sabrina Pearson

(plandevelopment@msn.com) <plandevelopment@msn.com>

Subject: RE: WN2022-0081 Response to Local Case File #851-22-000003-PLNG

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Thanks Patti. I was actually hoping you could draw a polygon around the subject area, inside of which the study area is. Would that be possible? Our wetland specialist was also going to reach out to Daniel to discuss the study area he needs.

Victoria Bennett

EVREN Northwest, Inc. Portland, Oregon 97293 (503) 452-5561

This communication may contain privileged and/or confidential information. It is intended solely for the use of the addressee. If you are not the intended recipient, you are strictly prohibited from disclosing, copying, distributing or using any of this information. If you received this communication in error, please contact the sender immediately and destroy the material in its entirety, whether electronic or hard copy. This communication may contain nonpublic personal information about consumers subject to the restrictions of the Gramm-Leach-Bliley Act. You may not directly or indirectly reuse or redisclose such information for any purpose other than to provide the services for which you are receiving the information.

From: Patti Lundeen <<u>plundeen@sycan.com</u>>
Sent: Thursday, March 03, 2022 2:07 PM

To: Tori Bennett <torib@evren-nw.com>; Richard Boyles <rboyles@meretehotels.com>

Cc: Bobbi Kearney < <u>bkearney@meretehotels.com</u>>; Sabrina Pearson

(plandevelopment@msn.com) <plandevelopment@msn.com>

Subject: RE: WN2022-0081 Response to Local Case File #851-22-000003-PLNG

Tori:

All of our scanners are down for some reason.

I have taken a photo of the google earth map with my phone and have attached it.

I highlighted the Sahhali South Roads that service the SS lots. The Scherzinger road is where the drain field is located.

Please call me with any further questions.

Sincerely,

Patti Lundeen

Property Manager SYCAN B CORP

840 Beltline Rd, Ste 100 (physical) Ste 202(mailing) | Springfield, OR 97477

Plundeen@sycan.com_| www.meretehotels.com

OFFICE: 541.284.0612| FAX 541.746.2590



Look for the good.

This message is solely for the use of the intended recipient. This message is confidential, and may contain legally-privileged information. If you are not the intended recipient, be aware that any review, disclosure, copying, distribution, reliance upon or use of the contents of this message is strictly prohibited. If you have received this message in error, please destroy it and notify me immediately. Thank you.

From: Tori Bennett < torib@evren-nw.com > Sent: Thursday, March 3, 2022 1:11 PM

To: Patti Lundeen cplundeen@sycan.com; Richard Boyles

<rboyles@meretehotels.com>

Cc: Bobbi Kearney < <u>bkearney@meretehotels.com</u>>; Sabrina Pearson

(<u>plandevelopment@msn.com</u>) <<u>plandevelopment@msn.com</u>>

Subject: RE: WN2022-0081 Response to Local Case File #851-22-000003-PLNG

CAUTION: This email originated from outside of the organization. Do not click links or open

attachments unless you recognize the sender and know the content is safe.

Thank you!

Victoria Bennett

EVREN Northwest, Inc. Portland, Oregon 97293 (503) 452-5561

This communication may contain privileged and/or confidential information. It is intended solely for the use of the addressee. If you are not the intended recipient, you are strictly prohibited from disclosing, copying, distributing or using any of this information. If you received this communication in error, please contact the sender immediately and destroy the material in its entirety, whether electronic or hard copy. This communication may contain nonpublic personal information about consumers subject to the restrictions of the Gramm-Leach-Bliley Act. You may not directly or indirectly reuse or redisclose such information for any purpose other than to provide the services for which you are receiving the information.

From: Patti Lundeen <<u>plundeen@sycan.com</u>>
Sent: Thursday, March 03, 2022 1:06 PM

To: Tori Bennett <torib@evren-nw.com>; Richard Boyles <rboyles@meretehotels.com>

Cc: Bobbi Kearney bkearney@meretehotels.com; Sabrina Pearson

(plandevelopment@msn.com) <plandevelopment@msn.com>

Subject: RE: WN2022-0081 Response to Local Case File #851-22-000003-PLNG

Tori:

I will make sure I get that document to you today.

Sincerely,

Patti Lundeen

Property Manager SYCAN B CORP

840 Beltline Rd, Ste 100 (physical) Ste 202(mailing) | Springfield, OR 97477

Plundeen@sycan.com | www.meretehotels.com

OFFICE: 541.284.0612| FAX 541.746.2590



Look for the good.

This message is solely for the use of the intended recipient. This message is confidential, and may contain legally-privileged information. If you are not the intended recipient, be aware that any review, disclosure, copying, distribution, reliance upon or use of the contents of this message is strictly prohibited. If you have received this message in error, please destroy it and notify me immediately. Thank you.

From: Tori Bennett < torib@evren-nw.com>

Sent: Thursday, March 3, 2022 1:05 PM

To: Patti Lundeen <plundeen@sycan.com>; Richard Boyles

<rboyles@meretehotels.com>

Cc: Bobbi Kearney bkearney@meretehotels.com>; Sabrina Pearson

(plandevelopment@msn.com) <plandevelopment@msn.com>

Subject: RE: WN2022-0081 Response to Local Case File #851-22-000003-PLNG

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Thank you. Are you able to get the google earth aerial photo with the approximate project area shown over today?

Victoria Bennett

EVREN Northwest, Inc. Portland, Oregon 97293 (503) 452-5561

This communication may contain privileged and/or confidential information. It is intended solely for the use of the addressee. If you are not the intended recipient, you are strictly prohibited from disclosing, copying, distributing or using any of this information. If you received this communication in error, please contact the sender immediately and destroy the material in its entirety, whether electronic or hard copy. This communication may contain nonpublic personal information about consumers subject to the restrictions of the Gramm-Leach-Bliley Act. You may not directly or indirectly reuse or redisclose such information for any purpose other than to provide the services for which you are receiving the information.

From: Patti Lundeen <<u>plundeen@sycan.com</u>>
Sent: Thursday, March 03, 2022 12:58 PM

To: Richard Boyles rboyles@meretehotels.com; Tori Bennett torib@evren-nw.com>

Cc: Bobbi Kearney @meretehotels.com>; Sabrina Pearson

(plandevelopment@msn.com) <plandevelopment@msn.com>

Subject: RE: WN2022-0081 Response to Local Case File #851-22-000003-PLNG

Tori:

I have tried to scan the documents we spoke about over the telephone. Currently, our internal scanning equipment is not working correctly, and I have reported it.

I will get these documents over to you as soon as I can.

Sincerely,

Patti Lundeen

Property Manager SYCAN B CORP

840 Beltline Rd, Ste 100 (physical) Ste 202(mailing) | Springfield, OR 97477

Plundeen@sycan.com | www.meretehotels.com

OFFICE: 541.284.0612| FAX 541.746.2590



Look for the good.

This message is solely for the use of the intended recipient. This message is confidential, and may contain legally-privileged information. If you are not the intended recipient, be aware that any review, disclosure, copying, distribution, reliance upon or use of the contents of this message is strictly prohibited. If you have received this message in error, please destroy it and notify me immediately. Thank you.

From: Richard Boyles < rboyles@meretehotels.com>

Sent: Thursday, March 3, 2022 12:51 PM

To: Tori Bennett < torib@evren-nw.com >; Patti Lundeen < plundeen@sycan.com >

Cc: Bobbi Kearney bkearney@meretehotels.com; Sabrina Pearson

(<u>plandevelopment@msn.com</u>) <<u>plandevelopment@msn.com</u>>

Subject: RE: WN2022-0081 Response to Local Case File #851-22-000003-PLNG

By way of clarification, there are no new streets or utilities contemplated. With the exception of the reconfigured lots 13, no lot boundaries are changing anywhere remotely close to wetlands. I wonder if Daniel Evans understands that this project is already built out? In any case, the application does not include new utilities other than stub outs from existing utilizes in the street to new lots 13 and parcels A and B.

Richard Boyles | President Sycan B Corp. 840 Beltline Rd., Ste 202 | Springfield, OR 97477 rboyles@sycan.com 541 284-0613 | Fax 541 746-2590



From: Tori Bennett < torib@evren-nw.com>
Sent: Thursday, March 3, 2022 12:14 PM
To: Patti Lundeen < plundeen@sycan.com>

Cc: Bobbi Kearney < bkearney@meretehotels.com >; Richard Boyles

<rboyles@meretehotels.com>; Sabrina Pearson (plandevelopment@msn.com)

<plandevelopment@msn.com>

Subject: RE: WN2022-0081 Response to Local Case File #851-22-000003-PLNG

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

anaominomo amoso you roooginzo mo oonaon ana miow mo oomon no saro.

Thanks Patti. Our wetland specialist was wondering if you could provide a GIS shapefile or CAD shape of the area needing wetland delineation (all tax lots + "offsite work") in order to make expectations clear for all team members?

Victoria Bennett

EVREN Northwest, Inc. Portland, Oregon 97293 (503) 452-5561

This communication may contain privileged and/or confidential information. It is intended solely for the use of the addressee. If you are not the intended recipient, you are strictly prohibited from disclosing, copying, distributing or using any of this information. If you received this communication in error, please contact the sender immediately and destroy the material in its entirety, whether electronic or hard copy. This communication may contain nonpublic personal information about consumers subject to the restrictions of the Gramm-Leach-Bliley Act. You may not directly or indirectly reuse or redisclose such information for any purpose other than to provide the services for which you are receiving the information.

From: Patti Lundeen <<u>plundeen@sycan.com</u>>
Sent: Thursday, March 03, 2022 12:08 PM
To: Tori Bennett <<u>torib@evren-nw.com</u>>

Cc: Bobbi Kearney < <u>bkearney@meretehotels.com</u>>; Richard Boyles

<rboyles@meretehotels.com>; Sabrina Pearson (plandevelopment@msn.com)

<plandevelopment@msn.com>

Subject: RE: WN2022-0081 Response to Local Case File #851-22-000003-PLNG

Tori:

The attachments are from the <u>original</u> Site Plans. There is not an update set that I can provide, until we complete the adjustments approved with the county.

Please let me know if these documents will provide the information, you are looking for.

Sincerely,

Patti Lundeen

Property Manager SYCAN B CORP

840 Beltline Rd, Ste 100 (physical) Ste 202(mailing) | Springfield, OR 97477

Plundeen@sycan.com | www.meretehotels.com

OFFICE: 541.284.0612| FAX 541.746.2590



Look for the good.

privileged information. If you are not the intended recipient, be aware that any review, disclosure, copying, distribution, reliance upon or use of the contents of this message is strictly prohibited. If you have received this message in error, please destroy it and notify me immediately. Thank you.

From: Tori Bennett < torib@evren-nw.com > Sent: Thursday, March 3, 2022 11:54 AM

To: Bobbi Kearney < <u>bkearney@meretehotels.com</u>>; Richard Boyles

<rboyles@meretehotels.com>

Cc: Patti Lundeen <<u>plundeen@sycan.com</u>>; Sabrina Pearson (<u>plandevelopment@msn.com</u>) <<u>plandevelopment@msn.com</u>>

Subject: RE: WN2022-0081 Response to Local Case File #851-22-000003-PLNG

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Thank you. When I spoke with Daniel Evans he said is important to delineate the entire project area, not just the lots on which houses will be built but also areas of utility connections. I also don't see Tax Lot 200 included in the attached figures. Is there a figure or two you could share that outlines the entire area of this project, including TL 200 (if still involved in the project) utility connections, roads, etc?

Victoria Bennett

EVREN Northwest, Inc. Portland, Oregon 97293 (503) 452-5561

This communication may contain privileged and/or confidential information. It is intended solely for the use of the addressee. If you are not the intended recipient, you are strictly prohibited from disclosing, copying, distributing or using any of this information. If you received this communication in error, please contact the sender immediately and destroy the material in its entirety, whether electronic or hard copy. This communication may contain nonpublic personal information about consumers subject to the restrictions of the Gramm-Leach-Bliley Act. You may not directly or indirectly reuse or redisclose such information for any purpose other than to provide the services for which you are receiving the information.

From: Bobbi Kearney < bkearney@meretehotels.com >

Sent: Thursday, March 03, 2022 11:51 AM

To: Tori Bennett < torib@evren-nw.com >; Richard Boyles < rboyles@meretehotels.com >

Cc: Patti Lundeen <<u>plundeen@sycan.com</u>>; Sabrina Pearson (<u>plandevelopment@msn.com</u>) <<u>plundevelopment@msn.com</u>>

Subject: RE: WN2022-0081 Response to Local Case File #851-22-000003-PLNG

Attached are the relevant pages of the full application packet which show the partitioning of Tract A and the Replat of Lots 13a, 13b, 14-19, and 46-48b.

Bobbi Kearney – Executive Assistant Mereté Hotel Management 840 Beltline Rd. Suite 202 | Springfield, OR 97477

P: 541 284 0605 | F: 541 746 2590

bkearney@meretehotels.com | meretehotels.com



This message is solely for the use of the intended recipient. This message is confidential, and may contain legally-privileged information. If you are not the intended recipient, be aware that any review, disclosure, copying, distribution, reliance upon or use of the contents of this message is strictly prohibited. If you have received this message in error, please destroy it and notify me immediately. Thank you.

From: Tori Bennett < torib@evren-nw.com > Sent: Thursday, March 3, 2022 10:16 AM

To: Richard Boyles < rboyles@meretehotels.com>

Cc: Patti Lundeen clundeen@sycan.com; Bobbi Kearney

bkearney@meretehotels.com>; Sabrina Pearson (plandevelopment@msn.com)

<plandevelopment@msn.com>

Subject: RE: WN2022-0081 Response to Local Case File #851-22-000003-PLNG

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Thank you Richard.

Bobbi, if you could get me that map as soon as you can that would be great. I know time is of the essence. Thanks!

Victoria Bennett

EVREN Northwest, Inc. Portland, Oregon 97293 (503) 452-5561

This communication may contain privileged and/or confidential information. It is intended solely for the use of the addressee. If you are not the intended recipient, you are strictly prohibited from disclosing, copying, distributing or using any of this information. If you received this communication in error, please contact the sender immediately and destroy the material in its entirety, whether electronic or hard copy. This communication may contain nonpublic personal information about consumers subject to the restrictions of the Gramm-Leach-Bliley Act. You may not directly or indirectly reuse or redisclose such information for any purpose other than to provide the services for which you are receiving the information.

From: Richard Boyles <rboyles@meretehotels.com>

Sent: Thursday, March 03, 2022 9:23 AM **To:** Tori Bennett <<u>torib@evren-nw.com</u>>

Cc: Patti Lundeen <<u>plundeen@sycan.com</u>>; Bobbi Kearney

<bkearney@meretehotels.com>; Sabrina Pearson (plandevelopment@msn.com)

<plandevelopment@msn.com>

Subject: FW: WN2022-0081 Response to Local Case File #851-22-000003-PLNG

Tori,

The attached map shows existing conditions. It is not the correct map for purposes of Evren's work. Bobbi will provide you with the map that shows our proposed changes to lot lines. These changes are mostly internal to the current lot boundaries, but lots 13 a & b are proposed to have different external boundaries than shown in this map. Additionally, we propose to create two new lots. It will be important that the map included in your report match what we are proposing and not current conditions.

Thanks for asking this clarifying question.

Richard Boyles | President Sycan B Corp. 840 Beltline Rd., Ste 202 | Springfield, OR 97477 rboyles@sycan.com 541 284-0613 | Fax 541 746-2590



From: Tori Bennett < torib@evren-nw.com > Sent: Thursday, March 3, 2022 8:57 AM

To: Richard Boyles <rboyles@meretehotels.com>

Cc: Patti Lundeen <<u>plundeen@sycan.com</u>>; Sabrina Pearson (<u>plandevelopment@msn.com</u>) <<u>plandevelopment@msn.com</u>>

Subject: RE: WN2022-0081 Response to Local Case File #851-22-000003-PLNG

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

I spoke with Daniel Evans yesterday and he did say a full delineation of the entire project area, including areas for utilities, roads, etc. is needed. He says that wetlands are onsite per an old wetland delineation but the standards for delineation have been updated since that old report and they need a new delineation to identify the wetland boundaries Can you confirm that the attached pdf shows the subject site in its entirety?

Victoria Bennett

EVREN Northwest, Inc. Portland, Oregon 97293 (503) 452-5561

This communication may contain privileged and/or confidential information. It is intended solely for the use of the addressee. If you are not the intended recipient, you are strictly prohibited from disclosing, copying, distributing or using any of this information. If you received this communication in error, please contact the sender immediately and destroy the material in its entirety, whether electronic or hard copy. This communication may contain nonpublic personal information about consumers subject to the restrictions of the Gramm-Leach-Bliley Act. You may not directly or indirectly reuse or redisclose such information for any purpose other than to

provide the services for which you are receiving the information.

From: Richard Boyles < rboyles@meretehotels.com>

Sent: Thursday, March 03, 2022 7:59 AM **To:** Tori Bennett <<u>torib@evren-nw.com</u>>

Cc: Patti Lundeen <<u>plundeen@sycan.com</u>>; Sabrina Pearson (<u>plandevelopment@msn.com</u>) <<u>plandevelopment@msn.com</u>>

Subject: RE: WN2022-0081 Response to Local Case File #851-22-000003-PLNG

Thanks, Victoria. I look forward to Evren's assessment of what is required, cost to address the requirement and time frame to do so.

Richard Boyles | President Sycan B Corp. 840 Beltline Rd., Ste 202 | Springfield, OR 97477 rboyles@sycan.com 541 284-0613 | Fax 541 746-2590



From: Tori Bennett < torib@evren-nw.com > Sent: Wednesday, March 2, 2022 1:03 PM

To: Richard Boyles < rboyles@meretehotels.com>

Cc: Patti Lundeen <<u>plundeen@sycan.com</u>>; Sabrina Pearson (<u>plandevelopment@msn.com</u>) <<u>plandevelopment@msn.com</u>>

Subject: RE: WN2022-0081 Response to Local Case File #851-22-000003-PLNG

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Richard,

Just wanted to add that this order of operations is very familiar to us. If we get a site that it is unknown if wetlands are present, we always start with a determination and then can expand it to a delineation based on whether wetlands are determined to be present or not.

Victoria Bennett

EVREN Northwest, Inc. Portland, Oregon 97293 (503) 452-5561 This communication may contain privileged and/or confidential information. It is intended solely for the use of the addressee. If you are not the intended recipient, you are strictly prohibited from disclosing, copying, distributing or using any of this information. If you received this communication in error, please contact the sender immediately and destroy the material in its entirety, whether electronic or hard copy. This communication may contain nonpublic personal information about consumers subject to the restrictions of the Gramm-Leach-Bliley Act. You may not directly or indirectly reuse or redisclose such information for any purpose other than to provide the services for which you are receiving the information.

From: Richard Boyles < rboyles@meretehotels.com>

Sent: Wednesday, March 02, 2022 11:35 AM

To: Tori Bennett < torib@evren-nw.com >

Cc: Patti Lundeen <<u>plundeen@sycan.com</u>>; Sabrina Pearson (<u>plandevelopment@msn.com</u>) <<u>plundevelopment@msn.com</u>>

Subject: FW: WN2022-0081 Response to Local Case File #851-22-000003-PLNG

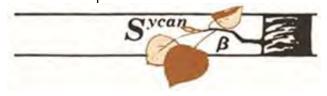
You don't often get email from rboyles@meretehotels.com. Learn why this is important

Tori,

Below is Sahhali South's land use planner's take on the requirement. Patti seemed to get a different impression when speaking with Daniel Evans at DSL. Before your firm undertakes a full wetland delineation, please explore with Daniel Evans whether the more limited scope described below will meet the requirement.

Please keep us apprised. Thanks.

Richard Boyles | President Sycan B Corp. 840 Beltline Rd., Ste 202 | Springfield, OR 97477 rboyles@sycan.com 541 284-0613 | Fax 541 746-2590



From: Sabrina Pearson <ple>plandevelopment@msn.com>

Sent: Friday, February 25, 2022 9:53 AM

To: Richard Boyles < rboyles@meretehotels.com>

Subject: Re: WN2022-0081 Response to Local Case File #851-22-000003-PLNG

Control of the control of guidance from catelacter of the organization. Do not onen in the or open

attachments unless you recognize the sender and know the content is safe.

Hi Richard,

This response states that "an onsite inspection by a qualified wetland consultant is recommended prior to site development to determine if the site has wetlands or other waters that may be regulated. The determination OR delineation should be submitted to DSL for review and approval. Approved maps will have a dSL stamp with approval date and expiration date."

This means that if your wetland consultant "makes a determination" that there are no wetlands or waters of the state on the site of these lots, then DSL will not require a delineation.

The most the Planning Commission should do is require what DSL has stated, that "prior to development, ..." verbiage cited above.

Not required but potentially a good move is the following:

Given that the wetlands are substantively far from these lots, it could be a good move to have your wetland consultant make onsite determination now, as far as possible in advance of the April 14 Planning Commission hearing date so that we can submit that as an update to the application, since this DSL response will be part of their decision documents.

If we received a response from DSL in timely manner, the PC would have the confirmation that nothing would be required.

We can discuss at 3 pm.

Sabrina Pearson, Plan Development LLC (503) 440-3015 / plandevelopment@msn.com

ASFPM Certified Floodplain Manager FEMA Certified Hazard Mitigation Plan Writer (Author 17 acknowledged plans) City Planner Multiple Coastal Cities (2002-2020)

Eastern Oregon University:
Bachelor of Science
Geography and Regional Land Use Planning

Oregon State University:

Masters Degrees:

Master of Natural Resources Degree (MNR)

Education Master Degree (EdM)

Candidate: Professional Science Master Degree Fisheries and Wildlife Administration

(PSMFWA)

Candidate: MS Data Analytics

Graduate Degree Certificates:

Water Conflict Management and Transformation (WCMT) Urban Forestry (UF)

Candidate: PhD Environmental Science Natural Resources and Environmental Education

> On Feb 24, 2022, at 4:29 PM, Richard Boyles < rboyles@meretehotels.com> wrote:

<Wetland Land Use Notice Response.pdf>

EXHIBIT C

From: Chris Laity

Sent: Wednesday, April 6, 2022 6:28 PM

To: Melissa Jenck; Jim Oeder **Subject:** RE: Sahhali South Comments

Melissa,

Page 22 of 62 (pdf page 23) Section 3.520(3)(b)(4) states that the streets are adequate to support the anticipated traffic and the development will not overload the streets outside of the of the planned area... This is incorrect as there is ongoing base failure along the existing lower road that needs to be addressed. This is likely a result of the poor & inadequate drainage contrary to what (5) states.

The request identifies a fire truck turnaround adjacent to Lot 13-B, but the request does not include any information that shows that it is viable to install the necessary retaining wall needed to support the turnaround. It is unclear, based on what was submitted, that the retaining wall can be construction within the proposed platted area. Additional setback requirements maybe needed on lots 13-A and 13-B for future reconstruction efforts.

My questions & comments may be addressed within the submitted. However, I will be in the field most of tomorrow and I won't have time to do a more thorough review.



Chris Laity, P.E. | Director
TILLAMOOK COUNTY | Public Works
503 Marolf Loop Road
Tillamook, OR 97141
Phone (503) 842-3419
claity@co.tillamook.or.us

This e-mail is a public record of Tillamook County and is subject to the State of Oregon Retention Schedule and may be subject to public disclosure under the Oregon Public Records Law. This e-mail, including any attachments, is for the sole use of the intended recipient(s) and may contain confidential and privileged information. Any unauthorized review, use, disclosure, or distribution is prohibited. If you are not the intended recipient, please send a reply e-mail to let the sender know of the error and destroy all copies of the original message.

From: Melissa Jenck <mjenck@co.tillamook.or.us>

Sent: Wednesday, April 6, 2022 5:05 PM

To: Chris Laity <claity@co.tillamook.or.us>; Jim Oeder <joeder@nrfpd.com>

Subject: Sahhali South Comments

Importance: High

Good evening Chris and Jim,

There are the additional documentation I've received from Sahhali. There is other details regarding water service and wetland discussions, but I've not based that on. If you have any comments you'd like to add to the record, the Staff report is due tomorrow. Please let me know if there is anything additional you'd like to add.

Thank you,



Melissa Jenck (she/her) | CFM, Land Use Planner II TILLAMOOK COUNTY | Community Development 1510-B Third Street Tillamook, OR 97141 Phone (503) 842-3408 x3301 mjenck@co.tillamook.or.us

This e-mail is a public record of Tillamook County and is subject to the State of Oregon Retention Schedule and may be subject to public disclosure under the Oregon Public Records Law. This e-mail, including any attachments, is for the sole use of the intended recipient(s) and may contain confidential and privileged information. Any unauthorized review, use, disclosure, or distribution is prohibited. If you are not the intended recipient, please send a reply e-mail to let the sender know of the error and destroy all copies of the original message.

The Department is excited to announce that we are OPEN to the public by appointment. To review the list of services provided and to schedule an appointment with us, please visit https://www.co.tillamook.or.us/gov/ComDev/ to access the appointment scheduler portal.

From: Jim Oeder <joeder@nrfpd.com>
Sent: Thursday, April 7, 2022 9:45 AM

To: Melissa Jenck
Cc: Chris Laity

Subject: EXTERNAL: Re: Sahhali South Comments

[NOTICE: This message originated outside of Tillamook County -- DO NOT CLICK on links or open attachments unless you are sure the content is safe.]

That is the road that is failing and does not have a turnaround. I will send you some pictures shortly I just got back from there.

James Oeder
Fire Chief
Nestucca RFPD
503-392-3313 office
503-812-2422 cell
joeder@nrfpd.com

On Thu, Apr 7, 2022 at 8:32 AM Melissa Jenck <mjenck@co.tillamook.or.us> wrote:

Good morning Chris,

Thank you for this information. As to the 'lower road', to ensure I'm gathering correctly, is this in relation to Thalassa Drive that is failing? Or is it a comment regarding another road?

Thank you,



Melissa Jenck (she/her) | CFM, Land Use Planner II

TILLAMOOK COUNTY | Community Development

1510-B Third Street

Tillamook, OR 97141

Phone (503) 842-3408 x3301

mjenck@co.tillamook.or.us

This e-mail is a public record of Tillamook County and is subject to the State of Oregon Retention Schedule and may be subject to public disclosure under the Oregon Public Records Law. This e-mail, including any attachments, is for the sole use of the intended recipient(s) and may contain confidential and privileged information. Any unauthorized review, use, disclosure, or distribution is prohibited. If you are not the intended recipient, please send a reply e-mail to let the sender know of the error and destroy all copies of the original message.

The Department is excited to announce that we are OPEN to the public by appointment. To review the list of services provided and to schedule an appointment with us, please visit https://www.co.tillamook.or.us/gov/ComDev/ to access the appointment scheduler portal.

From: Chris Laity < claity@co.tillamook.or.us Sent: Wednesday, April 6, 2022 6:28 PM

To: Melissa Jenck < mjenck@co.tillamook.or.us >; Jim Oeder < joeder@nrfpd.com >

Subject: RE: Sahhali South Comments

Melissa,

Page 22 of 62 (pdf page 23) Section 3.520(3)(b)(4) states that the streets are adequate to support the anticipated traffic and the development will not overload the streets outside of the of the planned area... This is incorrect as there is ongoing base failure along the existing lower road that needs to be addressed. This is likely a result of the poor & inadequate drainage contrary to what (5) states.

The request identifies a fire truck turnaround adjacent to Lot 13-B, but the request does not include any information that shows that it is viable to install the necessary retaining wall needed to support the turnaround. It is unclear, based on what was submitted, that the retaining wall can be construction within the proposed platted area. Additional setback requirements maybe needed on lots 13-A and 13-B for future reconstruction efforts.

My questions & comments may be addressed within the submitted. However, I will be in the field most of tomorrow and I won't have time to do a more thorough review.



Chris Laity, P.E. | Director

TILLAMOOK COUNTY | Public Works

503 Marolf Loop Road

Tillamook, OR 97141

Phone (503) 842-3419

claity@co.tillamook.or.us

nded recipient(s) and may contain confidential and privileged information. Any unauthorized review, use, disclosure, or distribution is prohibited. If you are not the intended recipient, please send a reply e-mail to let the sender know of the error and destroy all copies of the original message.

From: Melissa Jenck < mjenck@co.tillamook.or.us >

Sent: Wednesday, April 6, 2022 5:05 PM

To: Chris Laity <claity@co.tillamook.or.us>; Jim Oeder <joeder@nrfpd.com>

Subject: Sahhali South Comments

Importance: High

Good evening Chris and Jim,

There are the additional documentation I've received from Sahhali. There is other details regarding water service and wetland discussions, but I've not based that on. If you have any comments you'd like to add to the record, the Staff report is due tomorrow. Please let me know if there is anything additional you'd like to add.

Thank you,



Melissa Jenck (she/her) | CFM, Land Use Planner II

TILLAMOOK COUNTY | Community Development

1510-B Third Street

Tillamook, OR 97141

Phone (503) 842-3408 x3301

mjenck@co.tillamook.or.us

This e-mail is a public record of Tillamook County and is subject to the State of Oregon Retention Schedule and may be subject to public disclosure under the Oregon Public Records Law. This e-mail, including any attachments, is for the sole use of the intended recipient(s) and may contain confidential and privileged information. Any unauthorized review, use, disclosure, or distribution is prohibited. If you are not the intended recipient, please send a reply e-mail to let the sender know of the error and destroy all copies of the original message.

The Department is excited to announce that we are OPEN to the public by appointment. To review the list of services provided and to schedule an appointment with us, please visit https://www.co.tillamook.or.us/gov/ComDev/ to access the appointment scheduler portal.

From: Jim Oeder <joeder@nrfpd.com>
Sent: Thursday, April 7, 2022 10:27 AM

To: Melissa Jenck; Chris Laity

Subject: EXTERNAL: Fwd:

Follow Up Flag: Follow up Flag Status: Completed

[NOTICE: This message originated outside of Tillamook County -- DO NOT CLICK on links or open attachments unless you are sure the content is safe.]

I am sending pictures that show the road surface conditions. This is Thalassa Dr. which is the road that I believe we have been talking about from them. At the end of the road in just a short gravel section. Melissa also in this document there is a section for fire, first there is no Neskowin Fire Protection District and this is the first time I remember any mention of a turn around at the end of Vanora st. Could you give me a call when you can.

James Oeder Fire Chief Nestucca RFPD 503-392-3313 office 503-812-2422 cell joeder@nrfpd.com

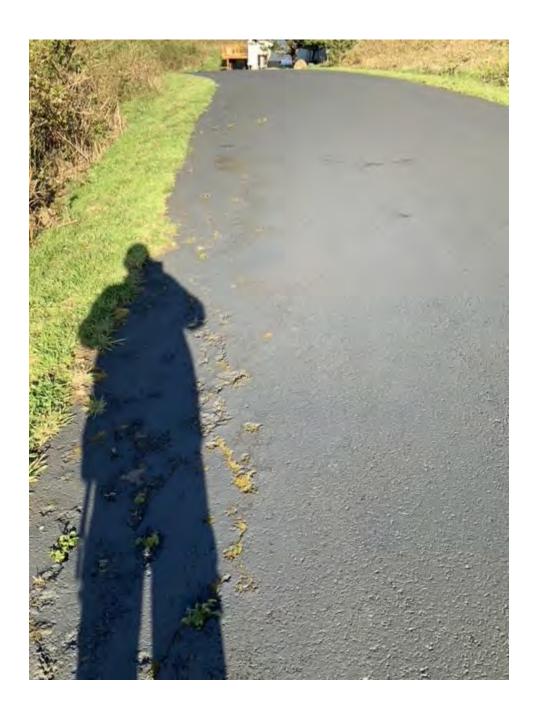
----- Forwarded message ------

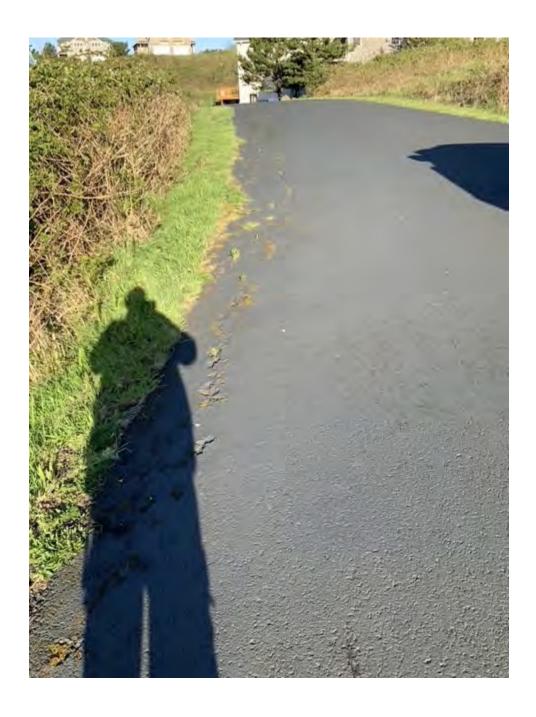
From: Jim Oeder < <u>joeder@nrfpd.com</u>>
Date: Thu, Apr 7, 2022 at 9:58 AM

Subject:

To: Jim Oeder < joeder@nrfpd.com>

<u>Download full resolution images</u> Available until May 7, 2022









Sent from my iPad

From: Jim Oeder <joeder@nrfpd.com>
Sent: Thursday, April 7, 2022 10:27 AM

To: Melissa Jenck; Chris Laity

Subject: EXTERNAL: Fwd:

Follow Up Flag: Follow up Flag Status: Completed

[NOTICE: This message originated outside of Tillamook County -- DO NOT CLICK on links or open attachments unless you are sure the content is safe.]

Rest of the pictures

James Oeder
Fire Chief
Nestucca RFPD
503-392-3313 office
503-812-2422 cell
joeder@nrfpd.com

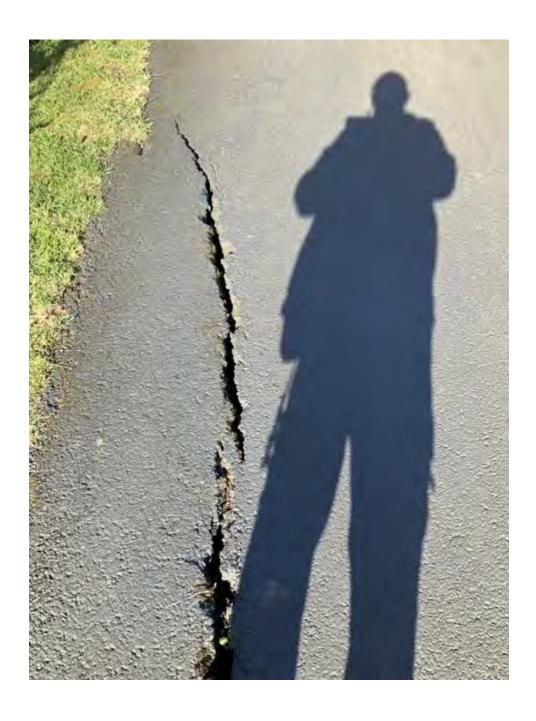
-------Forwarded message -------From: Jim Oeder < joeder@nrfpd.com >
Date: Thu, Apr 7, 2022 at 9:57 AM

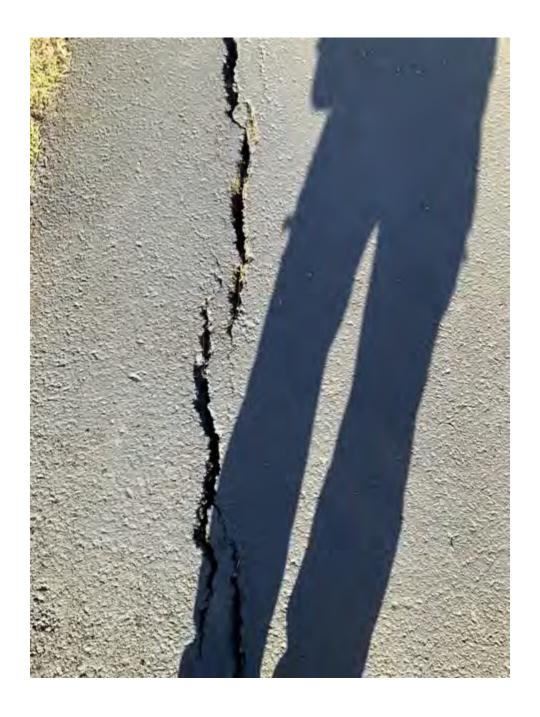
Subject:

To: Jim Oeder < joeder@nrfpd.com>

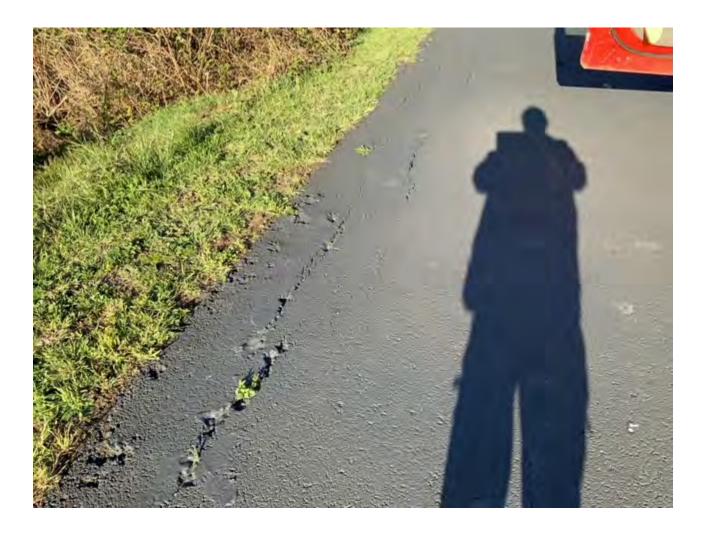
<u>Download full resolution images</u> <u>Available until May 7, 2022</u>











Sent from my iPad

From: Chris Laity

Sent: Wednesday, February 16, 2022 8:54 PM

To: Melissa Jenck; Jim Oeder **Subject:** RE: Final Sahhali Comments

Melissa,

The final details regarding the retaining wall will need to be submitted prior to construction. Since these walls lie within the right of way, the wall will be reviewed at the department per AASHTO standards. It is unclear if there is adequate room to allow for future maintenance, but I believe this can be accomplished with an easement based on the side setbacks (if needed). I have no objections to this proposal.



Chris Laity, P.E. | Director
TILLAMOOK COUNTY | Public Works
503 Marolf Loop Road
Tillamook, OR 97141
Phone (503) 842-3419
claity@co.tillamook.or.us

This e-mail is a public record of Tillamook County and is subject to the State of Oregon Retention Schedule and may be subject to public disclosure under the Oregon Public Records Law. This e-mail, including any attachments, is for the sole use of the intended recipient(s) and may contain confidential and privileged information. Any unauthorized review, use, disclosure, or distribution is prohibited. If you are not the intended recipient, please send a reply e-mail to let the sender know of the error and destroy all copies of the original message.

From: Melissa Jenck <mjenck@co.tillamook.or.us> Sent: Wednesday, February 16, 2022 10:07 AM

To: Chris Laity <claity@co.tillamook.or.us>; Jim Oeder <joeder@nrfpd.com>

Subject: Final Sahhali Comments

Importance: High

Good morning Chris and Jim,

I have to finish up the Sahhali Shores Subdivision staff report tomorrow. Given our previous meeting, I wanted to confirm whether there was any final comments on the record you would like to make. I attached the most recent additional maps that the Applicants included in the request, which includes diagrams of the turnarounds.

You can find the rest of the record online here <u>851-22-000003-PLNG</u>.

Thank you,



Melissa Jenck (she/her) | CFM, Land Use Planner II TILLAMOOK COUNTY | Community Development 1510-B Third Street Tillamook, OR 97141 Phone (503) 842-3408 x3301 mjenck@co.tillamook.or.us

This e-mail is a public record of Tillamook County and is subject to the State of Oregon Retention Schedule and may be subject to public disclosure under the Oregon Public Records Law. This e-mail, including any attachments, is for the sole use of the intended recipient(s) and may contain confidential and privileged information. Any unauthorized review, use, disclosure, or distribution is prohibited. If you are not the intended recipient, please send a reply e-mail to let the sender know of the error and destroy all copies of the original message.

The Department is excited to announce that we are OPEN to the public by appointment. To review the list of services provided and to schedule an appointment with us, please visit https://www.co.tillamook.or.us/gov/ComDev/ to access the appointment scheduler portal.

STATE LANDS

Wetland Land Use Notice Response

Response Page

Department of State Lands (DSL) WN#*

WN2022-0081

Responsible Jurisdiction

Staff Contact

Jurisdiction Type

Municipality

Melissa Jenck

County

Tillamook

Local case file #

851-22-000003-PLNG

County

Tillamook

Activity Location

Township

Range

Section

QQ section

AB

Tax Lot(s)

05S 11W 24

1300,1301

1900,4600

4800,4801 ,5900

Street Address

Sahali South - Proposal Point/Heron View Dr.

Address Line 2

City

State / Province / Region

Postal / Zip Code

Country
Tillamook

Latitude

marriook

45.128883

Longitude -123.970883

Township

Range

Section

QQ section

Tax Lot(s)

05S

11W

24

200

Street Address

Address Line 2

City

State / Province / Region

Postal / Zip Code

Country

Latitude

Longitude

45.128883

-123.970883

Wetland/Waterway/Other Water Features



There are/may be wetlands, waterways or other water features on the property that are subject to the State Removal- Fill Law based upon a review of wetland maps, the county soil survey and other available information.	
☐ The National Wetlands Inventory shows wetland, waterway or other water features on the property	
■ The county soil survey shows hydric (wet) soils on the property. Hydric soils indicate that there may be wetlands.	
The property includes or is adjacent to designated Essential Salmonid Habitat.	
Your Activity	5)
It appears that the proposed project may impact wetlands and may require a State permit.	
An onsite inspection by a qualified wetland consultant is recommended prior to site development to determine if the site has wetlands or other waters that may be regulated. The determination or delineation report should be submitted to DSL for review and approval. Approved maps will have a DSL stamp with approval date and expiration date.	
Applicable Oregon Removal-Fill Permit Requirement(s))
A state permit is required for 50 cubic yards or more of fill removal or other ground alteration in wetlands, below ordinary high water of waterways, within other waters of the state, or below highest measured tide.	
Closing Information	
Additional Comments	

Construction documents associated with the Sahhali South subdivision and Master Plan cite a PHS delineation to demonstrate avoidance of wetlands, with some built features on the edge of those wetlands. That delineation only covered a portion of the work area shown as the Master Plan and expired in 2010 (WD2005-0063). Since that time, the Army Corps of Engineers updated technical standards for conducting wetland delineations and the previous delineation may not be accurate. Without an updated delineation it is not possible to evaluate the current Master Plan for wetland and water impacts. An updated delineation for the entirety of the proposed project area, including for any offsite utility and sewer trenching that may be coming from the east side of Hwy 101, is recommended.

This is a preliminary jurisdictional determination and is advisory only.

This report is for the State Removal-Fill law only. City or County permits may be required for the proposed activity.

Contact Information

- For information on permitting, use of a state-owned water, wetland determination or delineation report requirements
 please contact the respective DSL Aquatic Resource, Proprietary or Jurisdiction Coordinator for the site county. The
 current list is found at: http://www.oregon.gov/dsl/ww/pages/wwstaff.aspx
- The current Removal-Fill permit and/or Wetland Delineation report fee schedule is found at: https://www.oregon.gov/dsl/WW/Documents/Removal-FillFees.pdf

Response Date

Posponeo hur	Document Phone:
Response by:	Response Phone:
Daniel Evans	503-986-5271

TO: Tillamook County Planning Commission

This letter is being submitted as written testimony in response to the Notice of Public Hearings, Tillamook County Planning Commission, Sahhali South Replat, Date of Notice: January 26, 2022. I respectfully request that this letter be included in the packet that is to be given to the Planning Commission prior to the February 24, 2022, hearing.

Thank you for taking the time to read the responses to <u>851-22-000003-PLNG</u> for replat of Sahhali South. I am the owner and full time resident of a home on Lot #7 in the community known as Sahhali South, having purchased here because of its rural nature as well as for the views of the ocean and wetlands.

The application for replat as expressed in GOALS 3, 4, 5, and 6 will significantly change the character, value and livability of the neighborhood.

GOAL 3: REPLAT OF TRACT A OPEN SPACE

The replat of Tract A, currently an open space area we had hoped to develop as a neighborhood park/meeting area, would result in two additional lots with two single family homes. This is inconsistent with TCLUO Section 3.520 (7) and Section 6.040 (4) because it would "alter the character of the surrounding area in a manner which substantially limits, impairs or prevents the use of surrounding properties for the permitted uses listed in the underlying zone." Additionally, the proposed addition of two residential home sites would block the ocean view of an existing home in Sahhali Shores and likely block the views of one another.

GOAL 4: REPLAT OF LOTS 13A and 13B

The current location of Lots 13A and 13B may not be easily buildable but the impact of homes built on those two original lots would not have an adverse impact on the environment, view or property values that the replat would inflict. The proposed replat bordering on the wetland is on a trail used by a herd of elk going to and from its night habitat in the wetland. One might argue that the elk will create an alternative trail but the proposed 5' interior line setback between single family homes in that area, as proposed by GOAL 5, will further inhibit access of the elk to the wetland.

The original plat of 13A and 13B is not on an elk trail. The original plat would not obstruct views. However, the proposed replat of those two lots would partially impact views from existing homes on Lots 7 and 8, significantly impact views from homes on Lots 9 and 10, and potentially affect views from Lots 11 and 12. Compromised views impact property value. However, the purpose of TCLUO Section 1.020 is to "preserve and stabilize the value of property."

In the application for replat the Declarant wishes "to swap" TRACT A Open Space on nearly level land for steep, unusable portions of the current Lots 13A and 13B. This is hardly an equitable trade off. It also violates our current Sahhali South Covenants, Section 6.4 entitled "Owners Easement of Enjoyment"

which states that "every Owner shall have a nonexclusive right and easement of enjoyment in and to the Common Property ..."

GOAL 5: CONSISTENT SETBACKS

The proposed setback will not serve the purposes of TCLUO 1.020 which are "to encourage the orderly development of land ... (there is nothing orderly or consistent about having some lots with 10' interior line setbacks and some with 5' setbacks) ... to preserve and stabilize the value of property ... (proposed replat will have impacts on views and loss of open space both of which will affect property value) ... aid in the provision of fire and police protection ... (5' interior setbacks between homes in this high wind area could augment the spread of fire) ... facilitate the provision of community services ... (propane tanks will necessarily be within feet of one another and not easily serviced or refilled while utility installations may be hindered due to lack of space) ... prevent undue concentration of population ... (homes within 10 feet of one another will have impact on privacy and quality of life) ... enhance the appearance of the landscape and protect public safety ... (houses crowded together will not be attractive and will be susceptible to spreading fires)."

In TCLUO 3.320, the intent is to maintain the rural character of the community by retaining large lots. In Sahhali Shores, the community adjacent to Sahhali South, the same Declarant developed that community with generous, livable spaces between single family homes and between multi-family homes. In contrast, the request for replat of Sahhali South is hardly rural with 5' interior line setbacks.

GOAL 6: ALLOWED LAND USES

It is apparent the Declarant is trying to use the replat petition to the Planning Commission in order to alter the CCRs of Sahhali South. The sole procedure for amending the CCRs is set forth in Section 15.6 which requires a vote of association members of both Class A and Class B (A being the Owners, B being the Developer) and approval of not less than 75% of <u>each</u> class. No vote has been scheduled or held.

The applicant is ignoring the procedure to amend the CCRs. He is also so certain that these replats will happen that prospective buyers have told me that the 5' setback and approval for single family homes on lots designed for multi-family homes will be approved by the County within a few months. On that basis, there are lots currently "pending" sale. Why such certainty?

A final thank you to the Planning Commission for hearing our concerns and objections. A special shout out to Melissa Jenck who has patiently fielded our questions.

Respectfully submitted,

Heidi Heidenreich

Sahhali South

February 7, 2022

Sahhali South LLC

Attn: Richard Boyles

Via mail: rboyles@meretehotels.com

Re: Application to Replat and Change CCR's

851-22-000003-PLNG

Richard,

This letter is sent on behalf of, and with authority from, Linda and myself (owners of Lot 49), Heidenreich (Lots 32, 33, and 34), Heidenreich (Lot 7), McPeak (Lot 26), Ryan (Lot 10), Bentson (Lot 9), Sammons (Lot 29), Hauptman (Lot 28), Diani (Lot 35), Richards (Lot 36), Hammack (Lot 44), Johnson (Lot 43), and the Karakashian, Fukui Living Trusts (Lot 42).

We have received the Notice of Public Hearing before the County Planning Commission on your Application to replat the subdivision and change the CCR setbacks, among others. The above owners have serious concerns about the Application and its effects and plan to voice them to the Planning Commission at the appropriate time. Please consider this our good faith request that you meet with us to discuss those concerns prior to any hearing and, further, to defer or continue the hearing and associated deadlines for a reasonable time to allow this to take place.

The current time deadlines set by the Notice for input do not allow for a long consideration of our proposal, so we will need a response from you no later than the close of business on Tuesday, February 8.

Thank you for your consideration.

On behalf of the above, sincerely,

Wyatt Angelo (ph: 970-275-3630), email: wyattlindaangelo@gmail.com

cc: Jenck, Tillamook County Community Development (via email)

(original signed and retained this date)

Tillamook County Planning Commission 1510 - B Third Street Tillamook, Oregon 97141

RE: 851-22-000003-PLNG

I am an owner of lot #44 in Sahhali South and have been living here permanently since September 2020. I am responding to the "Request for replat of a subdivision plat approval for a portion of "Sahhali South" together with Conditional Use request #85 1-22-000003-PLNG-01, to amend the Planned Development Master Plan." This is my written testimony to be included in the staff report on the Sahhali South Application for Replat application #851-22-000003-PLNG. I ask to also be included in providing oral testimony.

I am registering my objection to the following items in this Land Division Application request as presented to Tillamook County Planning Commission, and request that they not be approved.

Item 1 – no objection

Item 2 - no objection

Item 3 – **OBJECTION** Partition Tract A: Open Space into (2) Lots. I object to the open space conversion to building lots.

- a) The residents of Sahhali South have been considering uses for the open space on the corner of Heron View and Proposal Point. The central location of this open space and the flat ground area make this a perfect location for a community gathering place, recreation or potentially a future community center (as identified on page 14 of the Master Development Plan). Several residents have already taken the time to clear some of the weeds and plant wildflowers and plants. Elk and deer graze in this area contributing to the character of the community.
- b) When I purchased my lot in Sahhali South, I did so with the knowledge and expectation of enjoying the open space across the street that compensated for the close proximity of dwellings. The relocation of this open space for the more steeply sloped, inaccessible areas of lots 13A and 13B is not a comparable exchange.
- c) This change would alter the character of the surrounding area in a manner which limits and impairs the use of the surrounding area and non-beach recreational opportunities in the development. The community will be unable to utilize the open space currently in lots 13A and 13B steep slope.
- d) This is not consistent with the goals and policies of the Comprehensive Plan. Also, increasing the number of building lots increases the density of the development and decreases the views of residents to both the mountains and the ocean.

Item 4 – OBJECTION to replating and exchanging open space to the east of current 13B for the open space proposed to the west of 13A. Note that this is <u>not</u> an acceptable open space exchange for the current open space now referred to as A-1 and A-2. It is also not acceptable due to the fact that the new 13B proposed replat blocks the view line for lots 9 - 12.

Item 5 – OBJECTION This change to setbacks would require a vote by the owners of Sahhali South to amend the CC&R's.

- a) Applicant does not have the sole right to amend SS CCRs as set forth on page 13 of application.
 - CCR section 3.4.1 provides that I am a class A member of the association
 - Setbacks for lots are found in section 10.13 of the CCRs
 - the sole procedure for amending the CCRs is set forth in section 15.6 requires a vote of association members of both classes and the approval of not less than 75% of <u>each</u> class of members.
 - no such vote has been held, scheduled or even noticed and the Applicant has been silent on doing so.
- b) The Proposed Amendment to Recorded CCR Section 10.13 will increase the density of the development, reduce views and will affect properties outside of the "subject properties boundaries" in the application identified in Exhibit A page 7.
- c) This does not meet Tillamook Land Use Ordinance Section 1.020 Purpose. The proposed setbacks will not serve the purposes listed which are to "encourage the orderly development of land, ...to preserve and stabilize the value of property; aid in the provision of fire and police protection; facilitate the provision of community services (water, propane) prevent undue concentration of population, protect and enhance the appearance of the landscape and to protect and promote public safety.
- d) Under Tillamook Land Use Ordinance section 6.040 Review Criteria:
 - -section 3: The remaining lots in the subdivision are not suitable for a setback change based on size, shape, location, existence of improvements
 - -section 4: The proposed new setbacks will alter the character of the surrounding area in a manner which impairs or prevents the use of surrounding property for residential, recreational purposes;
- e) Close setbacks on the side like this will make it difficult to repair or install utilities along sides of house
- f) This is a substantial change in the appearance of the subdivision as it exists and the landscape, as currently all dwellings are spaced 20 feet apart.

Item 6 – OBJECTION This change to allowed land uses would require a vote by the owners of Sahhali South to amend the CC&R's. Section 15.6 of the CCRs states that <u>each</u> class of ownership has to approve a change in the CCRs by 75%. No such request for change has been presented to the residents and owners of property in the development, nor has a vote been conducted. The Proposed Amendment to Recorded CCR Section 10.3.1 removes the requirement for full compliance with the zoning restrictions of Tillamook County. Making the allowed land uses less restrictive and subject only to the developer run Architectural Review Board, that allows no other owner or resident participation, is not in the best interest of the resident owners of the development.

I look forward to discussing these issues with the Commission in the hearings scheduled for February and April.

Best Regards,

45040 Proposal Point (Lot #44) Neskowin, Oregon 97149

hammackk@gmail.com

602-370-1005

Melissa Jenck

From: Dochop1@comcast.net

Sent: Wednesday, February 9, 2022 11:26 AM

To: Melissa Jenck

Subject: EXTERNAL: 851-22-000003-PLNG-01 (for real)

[NOTICE: This message originated outside of Tillamook County -- DO NOT CLICK on links or open attachments unless you are sure the content is safe.]

The following is a copy of a letter which will be printed, signed, and hand delivered to be included in the staff report that will be presented to the Planning Commission. I will not be present at the February 24 hearing in person:

Tillamook County Planning Commission 1510-B Third Street Tillamook, OR 97141

February 9, 2022

I'm responding to a request for replat approval #851-22-000003-PLNG-01 with objections.

There are specified tax lots listed in the opening paragraph of exhibit A, and outlined in red in the Sahhali South plat map. What are not defined are the proposed changes on the other lots seen on the table on pages 17 and 18, specifically Lots 20-45. This table shows Lots 20-45 allowing either a detached 1 family or an attached 2 family home. This is addressed briefly in the narrative in Section 3.520(3)(a): "...the application clarified that both attached and detached dwellings are allowed on lots 1-45,..."

When I purchased lot 28 in 2008 there was no such understanding. Proposal Point Drive was intended for attached 2-family homes, ie. the townhomes. The proposed clarification will negatively alter the aesthetic properties of the neighborhood as originally conceived and advertised.

The neighborhood was intended to be built with well spaced and complementarily designed townhomes. The new proposal says that smaller, more crowded homes can be built in their place. These can have architectural designs that are quite disparate without neighborhood input.

The increase in construction density caused by building 2 separate 1-family homes will directly impact the enjoyment of and the value of my home. Lot 30 and Lot 31 (formerly 30/31) are to be sold as 2 separate 1-family homes. There will be 2 separate construction crews working simultaneously in a very concentrated area over an extended period of time (construction delays caused by supplies and manpower shortages). The doubling of construction crews, machinery, noise, and traffic is not healthy for the wildlife residing in the contiguous wetlands and national animal refuge. It also negatively impacts the peace and enjoyment of my home and neighborhood. In addition, lot 24, on the other side of my home has a pending sale which adds yet another construction site near my home. That would place 3 construction sites in the Proposal Pt. cul-de-sac simultaneously.

Please vote against replatting lots 1-45 in Sahhali South as described in 851-22-000003-PLNG-01.

Sincerely,

M. Christine Hauptmann, MD

45250 Proposal Point Drive (lot #28) Neskowin, OR 97149 Tillamook County Planning Commission 1510 - B Third Street Tillamook, Oregon 97141

RE: 851-22-000003-PLNG

I am the owner of lot #36 in Sahhali South and live here full time. I am responding to the "Request for replat of a subdivision plat approval for a portion of "Sahhali South" together with Conditional Use request #85 1-22-000003-PLNG-01, to amend the Planned Development Master Plan." This is my written testimony to be included in the staff report on the Sahhali South Application for Replat application #851-22-000003-PLNG.

I am registering my objection to the following items in this Land Division Application request as presented to Tillamook County Planning Commission, and request that they not be approved.

Item 1 - no objection

Item 2 - no objection

Item 3 – OBJECTION Partition Tract A: Open Space into (2) Lots. I object to the open space conversion to building lots.

Item 4 – OBJECTION to replating and exchanging open space to the east of current 13B for the open space proposed to the west of 13A. This is <u>not</u> an acceptable open space exchange for the current open space now referred to as A-1 and A-2. It is also not acceptable because the new 13B proposed replat blocks the view line for lots 9 - 12.

Item 5 – OBJECTION to the change in setbacks

- a) The Proposed Amendment to Recorded CCR Section 10.13 will increase the density of the development, reduce views and will affect properties outside of the "subject properties boundaries" in the application identified in Exhibit A page 7.
- b) This does not meet Tillamook Land Use Ordinance Section 1.020 Purpose. The proposed setbacks will not serve the purposes listed which are to "encourage the orderly development of land, ...to preserve and stabilize the value of property; aid in the provision of fire and police protection; facilitate the provision of community services (water, propane) prevent undue concentration of population, protect and enhance the appearance of the landscape and to protect and promote public safety.
- c) Under Tillamook Land Use Ordinance section 6.040 Review Criteria:
 - -section 3: The remaining lots in the subdivision are not suitable for a setback change based on size, shape, location, existence of improvements
 - -section 4: The proposed new setbacks will alter the character of the surrounding area in a manner which impairs or prevents the use of surrounding property for residential, recreational purposes.
- d) This is a substantial change to the appearance of the subdivision as it exists. Currently all dwellings are spaced 20 feet apart.

Item 6 – OBJECTION The Proposed Amendment to Recorded CCR Section 10.3.1 removes the requirement for full compliance with the zoning restrictions of Tillamook County. It makes the allowed land uses less restrictive, is subject only to the developer run Architectural Review Board which allows no other owner or resident participation. It is not in the best interest of the resident owners of the development.

Sincerely

Peggy R Richards 45170 Proposal Point Dr (lot 36) Neskowin, Oregon 97149 prmcelroy@msn.com 503-720-7585 Tillamook County Planning Commission 1510-B Third Street Tillamook, OR 97141

RE: Application 851-22-000003-PLNG

This letter is submitted as written testimony by Boyce Heidenreich and Brooke Heidenreich, owners of Lots 32, 33, and 34 in the Sahhali South Development. We request that it be included in the packet being prepared for the Planning Commission for its scheduled hearings on the above referenced application. We would like to address Application Request 3 (partitioning Tract A into Lots A-1 and A-2) and Application Request 5 (adopting consistent setbacks).

REQUEST 3, PARTITION OF TRACT A

This particular tract is on level, easily accessible land at the entrance to the Sahhali South development. To our knowledge it is the only open space in the development that could be used as a small neighborhood park.

We object to the Applicant's request that this tract be divided into two purchasable lots, A-1 and A-2, and that a very steep, inaccessible parcel of land be substituted as the community's open space. The Applicant's new open space would be located next to proposed Lots 13a and 13b. Not only would this eliminate any suitable, accessible space for a neighborhood park, but it is inconsistent with TCLUO Section 3.520(7) and Section 6.040(4) that state "the proposed use will not alter the character of the surrounding area in a manner which substantially limits, impairs or prevents the use of surrounding properties for the permitted uses listed in the underlying zone."

In addition, this violates our current Declaration of Covenants, Conditions and Restrictions of Sahhali South (CCRs). Section 6.4 of our CCRs, entitled "Owners' Easement of Enjoyment," states that "every Owner shall have a nonexclusive right and easement of enjoyment in and to the Common Property, which shall be appurtenant to and shall pass with the title to every Lot." This is simply not possible on the proposed steep, inaccessible land the Applicant is proposing as common property. In other words, it appears to us that Request 3 disregards the interests of current and future owners while focusing solely on the interests of the Applicant.

REQUEST 5, ADOPT CONSISTENT SETBACKS

We are not against the development of our community but we have assumed it would be done in ways consistent with our adopted and recorded CCRs. We have been well aware that we will have neighbors living next to our property but we were not expecting them to be 5 feet from us. The current setbacks,

as set forth in our CCRs are between 10-15 feet. Our objections to the proposed 5' setbacks are as follows:

- 1) It is inconsistent with current setbacks for the homes in Sahhali South and the nature of the development. As such, it violates TCLUO 6.040, sections 3 and 4 as quoted above. Five foot setbacks and the potential of homes being built with only 10' between them significantly alters the character of the surrounding area.
- 2) It increases the risk of fire spreading rapidly to adjacent structures. Although we are fortunate to have a dedicated and skilled fire department serving our community, it is located in Hebo. Given the time it would take for firefighters to respond to fires in our development, decreasing setbacks and building homes within 10' of each other would substantially increase the likelihood of fires spreading rapidly to other structures. One of the provisions in Section 1.0202 of Article 1 of the TCLUO is "to aid in the provision of fire and police protection." Approval of the Applicant's request does not, in our opinion, ring true to this provision.
- 3) Given the increased possible impact of fire with structures this close to each other, this proposal will detrimentally affect homeowners' insurance premiums.
- 4) In constructing new homes on lots with only a 5' setback on each side, how will it be possible to get heavy machinery and large construction vehicles and apparatus along the sides of lots? Where will excavated materials be placed? Where will building materials and supplies be unloaded and kept until used? We believe this could also "substantially limit, impair or prevent the use of surrounding properties" most specifically our Lot 32 along with any lot in the development that borders new construction.
- 5) This proposal is inconsistent with Section 3.320 of the Neskowin Rural Residential (NeskRR) Zone. In item 4 (k)(2) of this section it states that "Building width at all points shall not exceed 70% of the distance between opposite side lot lines (measured as close to perpendicular as possible)." Given that Lot 31 next to us is approximately 40' wide, that means a home could be only 28' wide. That results in 6' setbacks, not the 5' setbacks the Applicant is asking the Planning Commission to approve. While the difference may not be large, adhering to the NeskRR provisions is important to us.
- 6) This proposal, by being submitted to the Planning Commission for approval, is side-stepping our adopted CCRs and asking the County to be party to vacating the clearly defined process for changing our CCRs outlined in Section 15.6 of that document. Our reading of the County's Land Development Ordinance is that it prohibits changes to CCRs as part of the review process. Section 120(3)(c) states that limitations on replatting include that it does not act to "vacate any recorded covenants or restrictions." Approval of the Applicant's request would do just that.
- 7) The scope of the Applicant's request to change setbacks is not clear. While the Applicant is asking the Planning Commission to approve changes that will provide "consistent setback requirements throughout the development," his application is inconsistent in that it also states that the request "involves 13 vacant lots controlled entirely by the Declarant." Which is it? If the Applicant wants to change all setbacks, we believe Section 10.020(1)(a) of the

- TCLUO prohibits this. The Applicant cannot ask for changes to setbacks for property he does not own. We believe he has no jurisdiction to modify the setbacks on our Lots 32 and 33.
- 8) Not only is the Applicant ignoring the duly recorded CCRs of our community, but he initiated the request to have the Planning Commission approve a change to the setbacks with no prior notice to current owners. In fact, we were told about the proposed new 5' setbacks by prospective buyers who said that the County would be approving them within the next two months. In other words, real estate agents and prospective buyers have known about this long before property owners found out about it from the County's January 26, 2022, notice. While this may not violate any rules or procedures, it is a disheartening way for owners to be treated.

We appreciate the opportunity to present this written testimony to the Planning Commission and thank the members of the commission for your consideration of our views. We also would like to thank County staff, particularly Melissa Jencks, for her amazingly prompt replies to our questions and requests.

Sincerely,

Boyce and Brooke Heidenreich

TO: Tillamook County Planning Commission

This letter is being submitted as written testimony in response to the Notice of Public Hearings, Tillamook County Planning Commission, Sahhali South Replat, Date of Notice: January 26, 2022. I respectfully request that this letter be included in the packet that is to be given to the Planning Commission prior to the February 24, 2022, hearing.

Thank you for taking the time to read the responses to <u>851-22-000003-PLNG</u> for replat of Sahhali South. I am the owner and full time resident of a home on Lot #7 in the community known as Sahhali South, having purchased here because of its rural nature as well as for the views of the ocean and wetlands.

The application for replat as expressed in GOALS 3, 4, 5, and 6 will significantly change the character, value and livability of the neighborhood.

GOAL 3: REPLAT OF TRACT A OPEN SPACE

The replat of Tract A, currently an open space area we had hoped to develop as a neighborhood park/meeting area, would result in two additional lots with two single family homes. This is inconsistent with TCLUO Section 3.520 (7) and Section 6.040 (4) because it would "alter the character of the surrounding area in a manner which substantially limits, impairs or prevents the use of surrounding properties for the permitted uses listed in the underlying zone." Additionally, the proposed addition of two residential home sites would block the ocean view of an existing home in Sahhali Shores and likely block the views of one another.

GOAL 4: REPLAT OF LOTS 13A and 13B

The current location of Lots 13A and 13B may not be easily buildable but the impact of homes built on those two original lots would not have an adverse impact on the environment, view or property values that the replat would inflict. The proposed replat bordering on the wetland is on a trail used by a herd of elk going to and from its night habitat in the wetland. One might argue that the elk will create an alternative trail but the proposed 5' interior line setback between single family homes in that area, as proposed by GOAL 5, will further inhibit access of the elk to the wetland.

The original plat of 13A and 13B is not on an elk trail. The original plat would not obstruct views. However, the proposed replat of those two lots would partially impact views from existing homes on Lots 7 and 8, significantly impact views from homes on Lots 9 and 10, and potentially affect views from Lots 11 and 12. Compromised views impact property value. However, the purpose of TCLUO Section 1.020 is to "preserve and stabilize the value of property."

In the application for replat the Declarant wishes "to swap" TRACT A Open Space on nearly level land for steep, unusable portions of the current Lots 13A and 13B. This is hardly an equitable trade off. It also violates our current Sahhali South Covenants, Section 6.4 entitled "Owners Easement of Enjoyment" which states that "every Owner shall have a nonexclusive right and easement of enjoyment in and to the Common Property ..."

GOAL 5: CONSISTENT SETBACKS

The proposed setback will not serve the purposes of TCLUO 1.020 which are "to encourage the orderly development of land ... (there is nothing orderly or consistent about having some lots with 10' interior line setbacks and some with 5' setbacks) ... to preserve and stabilize the value of property ... (proposed replat will have impacts on views and loss of open space both of which will affect property value) ... aid in the provision of fire and police protection ... (5' interior setbacks between homes in this high wind area could augment the spread of fire) ... facilitate the provision of community services ... (propane tanks will necessarily be within feet of one another and not easily serviced or refilled while utility installations may be hindered due to lack of space) ... prevent undue concentration of population ... (homes within 10 feet of one another will have impact on privacy and quality of life) ... enhance the appearance of the landscape and protect public safety ... (houses crowded together will not be attractive and will be susceptible to spreading fires)."

In TCLUO 3.320, the intent is to maintain the rural character of the community by retaining large lots. In Sahhali Shores, the community adjacent to Sahhali South, the same Declarant developed that community with generous, livable spaces between single family homes and between multi-family homes. In contrast, the request for replat of Sahhali South is hardly rural with 5' interior line setbacks.

GOAL 6: ALLOWED LAND USES

It is apparent the Declarant is trying to use the replat petition to the Planning Commission in order to alter the CCRs of Sahhali South. The sole procedure for amending the CCRs is set forth in Section 15.6 which requires a vote of association members of both Class A and Class B (A being the Owners, B being the Developer) and approval of not less than 75% of <u>each</u> class. No vote has been scheduled or held.

The applicant is ignoring the procedure to amend the CCRs. He is also so certain that these replats will happen that prospective buyers have told me that the 5' setback and approval for single family homes on lots designed for multi-family homes will be approved by the County within a few months. On that basis, there are lots currently "pending" sale. Why such certainty?

A final thank you to the Planning Commission for hearing our concerns and objections.	A special sh	out
out to Melissa Jenck who has patiently fielded our questions.		

Respectfully submitted,

Heidi Heidenreich

Sahhali South

Tillamook County Department of Community Development

1510-B Third Street

Tillamook, OR 97141 Re: Application 851-22-000003-PLNG

This is the written testimony of Wyatt Angelo and Linda Angelo, owners of Lot 49, Sahhali South, with reference to the above Application and addresses Request 3,"Partition Tract A," and Request 5, "Adopt Consistent Setbacks, Amend CCRs Section 10.13, Addendum to Master Plan." We also request the opportunity to present oral testimony at the hearings in February and April.

BACKGROUND

Sahhali South Development is situated approximately 25 miles south of Tillamook, west of Highway 101. It is bounded on the west and south by a wildlife refuge. Currently there are 63 residential lots, the majority of which are adjacent to the Sahhali Shores subdivision and are serviced by a common access road (Sahhali Drive) from Highway 101. There are 7 lots in a standalone unit approximately 250 yards south of the main development and serviced by a separate access road from Highway 101 (Pelican Point Drive).

The lots in the northern area of the development average about .12 acres, and all of the structures constructed there today are attached (townhomes). The lots on Pelican Point Drive average approximately .25 acres; and currently there is one detached home on Lot 49, belonging to the undersigned.

The Homeowners Association (HOA) is essentially non-functioning by choice of the developer/applicant, who controls the affairs of the association (including Architectural Control Board) per the CCRs and percentage of ownership. No meetings of the Association have been noticed, called or scheduled in the last two years. Non-affiliated lot owners receive, and are required to pay, an annual bill for dues which are set by the developer. Approximately 46% of the dues paid by owners in 2021 were used for 'common area operations' and another 27% of those dues were levied for the 'common area capital fund.' The applicant is exempt from paying HOA dues.

THE APPLICATION IS DEFICIENT/INCOMPLETE

The County Development Approval Procedures (LUO 10.020 (6)(v) mandates that an application contain "a detailed statement that demonstrates how the proposal meets all approval criteria . . ."

The Application's "detailed statement" as to approval criteria 4 (LUO SECTION 6.040) at page 22 states:

"The 2021 Amendment to Sahhali South Planned Development Subdivision does not alter the character of the surrounding area in any way that substantively limits, impairs, or prevents the use of surrounding properties for the permitted uses listed in the underlying zone. The 2021 Amendment to Sahhali South continues the development character of detached and attached single-family-dwellings with the Sahhali South 2005 and 2007 decisions."

In short, an application itself is deficient if it does not make the detailed showing as to each of the criteria set forth in the Approval Procedures. The applicable language of this Application is conclusory

and devoid of detail as to ANY of the six Goals of the Application. Because the Application does not conform to the LUO standards, it should be denied without a hearing. Should the Community Development Department or the Planning Commission wish to allow the applicant to supplement the Application, all hearings should be continued to allow further community input on the supplemented Application.

GOAL 3, PARTITION TRACT A

Tract A is open space at the entrance to both Sahhali South and Sahhali Shores. Applicant proposes to remove Tract A from 'open space' and divide and sell it as two lots. This has been identified open space for the development (common area as defined by statute) since inception and is the only common space which is relatively level, centrally located and accessible. This is not true of the property to be substituted. The naked assertion that taking Tract A from open space "will not alter the character which substantially limits, impairs or prevents the use of surrounding properties for permitted uses" is completely lacking in the detail required and inconsistent with the applicant's own goals for the development. See above.

GOAL 5, ADOPT CONSISTENT SET BACKS

CHANGE OF CCRs BY APPLICATION OF TILLAMOOK COUNTY LAND DEVELOPMENT ORDINANCE (LDO)

We do not believe that the provisions of the Tillamook County Land Development Ordinance can be applied to a change to the CCRs as set forth in Application Goal 5. The Land Development Ordinance prohibits changes to CCRs as part of that review process. Application p. 27, LDO Section 120 (3)(c).

CHANGE OF CCRs BY APPLICATION OF TILLAMOOK COUNTY LAND USE ORDINANCE (LUO)

Introduction.

The Application seems inconsistent, in that the Statement of Intent (p. 5) specifically states that the request "involves 13 vacant lots controlled entirely by the Declarant." This is misleading because reading further, on page 5 at paragraph 5 the Application states that it seeks to amend the Master Plan and CCRs to provide for "consistent setback requirements throughout the development." The Staff should clarify this with the applicant and modify the Application accordingly, with an appropriate period for supplemental input by lot owners.

CCRs are not a "USE"

As we read it, Application Goal 5 seeks to alter the CCRs originally filed as part of the master plan in order to change side yard setbacks from 15 feet to 5 feet for each lot on which a detached residence is constructed via the CONDITIONAL USE PROCEDURES AND CRITERIA in ARTICLE V of the LUO. "USE" is defined in the LUO as "The purpose for which a structure is designed, arranged, or intended, or for which a unit of land is developed, occupied or maintained." LUO DEFINITIONS 11.030. The CCRs and setbacks themselves are clearly not a "purpose," and therefore the provisions of the LUO should not apply. This would seem to make sense, as neither setbacks nor CCRs are listed in the LUO as either a conditional use or use as a matter of right. The Planning Commission and the County should reject this part of the Application as beyond the authority granted to them under the LUO.

Standing

Even assuming the provisions of the Land Use Ordinance apply, Section 10.020 of the Land Use Ordinance prohibits the Applicant from applying for such a change to setbacks for property it does not own. It, therefore, has no standing to seek to modify property owned by others.

Authority to Change CCRs

The Sahhali South CCRs provide for changing the CCRs by vote of the owners (CCRs Section 15.6). The Applicant has not availed itself of the very process it created. Insofar as the Application seeks to change CCRs, it is at least premature and probably seeks to persuade the County to act where it has no authority. To now seek to use the County Planning process to change CCRs after properties within the development have been purchased and built on by third parties is manifestly unfair, and the County should not allow itself to facilitate it.

Neither the Land Division Ordinance or the Land Use Ordinance apply to changing CCRs. The request is beyond the authority of the County to act through the planning process and should be denied.

Tillamook County Land Use Ordinance SECTION 6.040 REVIEW CRITERIA

If the County believes changing CCRs is a "USE" to be reviewed, we now address REVIEW CRITERIA (3) Suitability of Parcel and (4) Alteration of Character.

Suitability: LUO REVIEW CRITERIA Section 6.040 (3)

The Application seeks to change setbacks established by the current CCRs in a substantial and dramatic way. The proposed change to the side yard setbacks in the CCRs from 15 feet to 5 feet for detached homes (a 66% reduction of side yard space) is not suited to the location of the Applicant's lots. Those lots are currently intermingled in a subdivision wherein 16 attached (townhomes) and 1 detached (single family) residence have been constructed. The townhomes have a 10 foot side yard setback or distance of 20 feet between structures.

To now permit the construction of detached homes with side yard setbacks of 5 feet - interspersed beside and between townhomes with larger setbacks - will substantially change the character and aesthetics of the development. Furthermore, the setbacks proposed are urban in nature, not rural residential.

Neskowin Rural Residential zoning allows for 5 foot setbacks where the minimum lot size is 20,000 square feet (LUO 3.320(4). The majority of the vacant lots that are the subject of this Application were designed for townhomes and average less than 6000 square feet. Reducing side yard setbacks by 66% for detached homes is not *compatible* with the development and improvements as they exist today. In considering "suitability," the County must consider the size, location and existence of other improvements, including those other homes constructed within the development (LUO Section 6.010 and Section 6.040(3).

Alteration: LUO REVIEW CRITERIA 6.040 (4)

The implications of a 10 foot total distance between structures in a non-urban area are substantial and alter the character of the Development. A limited few are discussed below.

Privacy

Privacy impacts on adjacent homeowners cannot be ignored. While visual 'trespasses' may be mitigated by fencing, the CCRs in Section 10.11 state that no fence is permitted within the minimum setback line and the property line. It is physically impossible to build a fence in this space without building within the setback or encroaching on the adjacent property. People's everyday privacy concerns about what goes on in their homes should be paramount. They are substantially and adversely impacted by closer setbacks.

Normal day-to-day activities related to homeownership and maintenance are limited and impaired (LUO REVIEW CRITERIA 6.040(4).

As an example, one cannot safely erect a ladder for second story or roof maintenance within a 5 foot side yard setback. The height limitation in the CCRs range from 24-35 feet (Neskowin RR). One cannot safely erect a ladder to a 24 foot roof with less than 6 feet of space for the base of the ladder from the wall.

Quiet Enjoyment

The adverse impacts of construction and excavation on adjacent properties, their occupants, and their ability to enjoy their homes are substantial with smaller setbacks. Noise, excavated material and access by equipment to sites will impinge on adjacent properties if smaller setbacks are permitted. Current setbacks are adequate to mitigate these impacts; the proposed side yard setback is not.

Public Safety

Risk of fire spread from one home to another by virtue of radiant heat transmission is greatly increased by reducing the distance between structures. This is particularly applicable in Sahhali, where winds are constant and normal gusts dangerous in fire situations.

THE APPLICATION CONSIDERED IN ITS ENTIRETY

When considered together, the overall impact of the Application requests is greater than those of the individual parts. Chopping space between homes by 66%, changing lot configurations to interfere with owner view corridors, 'taking' and selling the only centrally located and accessible common space - all in a relatively small/compressed area of homes - is devastating to the character, value, and desirability of the Development and the legitimate expectations of current owners regarding the enjoyment of their homes. Granting Requests 3 and 5 will violate the purposes of the LUO. See LUO PURPOSE, SECTION 1. The Application's statement (p. 22) that the proposed changes "will not alter the character of the surrounding area" is conclusory and devoid of the detail required to consider or grant the Application.

Thanks to the staff and the Planning Commission for the opportunity to present written testimony.

Sincerely,

Wyatt Angelo Linda Angelo

Address: 6375 Pelican Point Drive, Neskowin, OR 97149

Phone: 970-275-3630

Email: wyattlindaangelo@gmail.com

Submitted by email February 13, 2021 addressed to mjenck@co.tillamook.or.us and ltone@co.tillamook.or.us. Original is signed and delivered on February 14, 2022

Ron and Lynell Bohr Lot 37, Sahhali South Neskowin, OR 97149

February 11, 2022

Tillamook County Department of Community Development 1510-B Third Street Tillamook, OR 97141 Attn: Melissa Jenck, Project Planner

Letter to be presented to the Planning Commission

RE: 851-22-000003-PLNG and 851-22-000003-01

Please regard this as our written testimony in response to the above referenced replat requests.

My wife and I have been owners of lot 37 in Sahhali South since 2008. The proposed changes are being presented to Tillamook County with no requested input from the owners. These changes will significantly affect the character and esthetic value of the community.

We specifically object to:

1. Goal 3 (Partition Tract A: Open Space into 2 lots) and Goal 4 (Replat Partition lots 13a and 13b into 2 lots and 1 open space Tract A).

These items will move the Open Space area to an area that is basically unusable for its intended purpose (an open space to enhance the esthetic value of the community) and benefits only the developer to sell an area that is more suitable for building and sale.

2. Goal 5 (Consistent Setbacks). This change would allow for a reduction in setback requirements for interior side vards from 10' to 5' for **detached** single family dwellings for lots that were originally designed for attached single family dwellings (which all the currently built homes are). This would essentially allow for "row houses" not conducive to the initial design criteria and expectations of all owners. Better would be to convert the 2 lots designed for **attached** single family dwellings into 1 lot for 1 **detached** single family dwelling and adhere to the original 10' setback.

Conclusion:

These changes would negatively affect the esthetics as well as property values of this beautiful ocean side community. Due to the current state of the home buying frenzy, the developer is obviously trying to maximize profits to the detriment of the owners.

Koz Bohn Synell & Bohs

Sincerely,

Ron and Lynell Bohr ronbohr@cox.net

Melissa Jenck

From: Brenda Freshman < Brenda.Freshman@csulb.edu>

Sent: Monday, February 14, 2022 9:51 AM

To: Melissa Jenck; Lynn Tone

Cc: Brenda Freshman

Subject: EXTERNAL: Re: Application 851-22-000003-PLNG **Attachments:** plannding Commission letter. B. Freshman.docx

[NOTICE: This message originated outside of Tillamook County -- DO NOT CLICK on links or open attachments unless you are sure the content is safe.]

February 13, 2022

Tillamook County Department of Community Development 1510-B Third Street

Tillamook, OR 97141 Re: Application 851-22-000003-PLNG

Submitted for acceptance is this written testimony of the Brenda Freshman, Trustee for Brenda Freshman Living Trust, owner of Lots 2 and 3, Sahhali South, with reference to the above Application. These comments are submitted to addresses Request 3,"Partition Tract A," and Request 5, "Adopt Consistent Setbacks, Amend CCRs Section 10.13, Addendum to Master Plan."

I also request the opportunity to present oral testimony at the hearings in February and April.

My current written comments to be forwarded to the Department of Community Development, and Planning
Commissioners are as follows:

THE APPLICATION IS DEFICIENT/INCOMPLETE

The County Development Approval Procedures (LUO 10.020 (6)(v)) requires that applications "contain a detailed statement that demonstrates how the proposal meets all approval criteria . . ."

The Application's "detailed statement" as to approval criteria 4 (LUO SECTION t6.040) at page 22 states:

"The 2021 Amendment to Sahhali South Planned Development Subdivision does not alter the character of the surrounding area in any way that substantively limits, impairs, or prevents the use of surrounding properties for the permitted uses listed in the underlying zone. The 2021 Amendment to Sahhali South continues the development character of detached and attached single-family-dwellings with the Sahhali South 2005 and 2007 decisions."

I disagree with the applicants assessment as the proposed amendments would directly change the character of the landscape and the use of the property.

The statement in the Application is vacant of the detail required to address how the changes sought do "not alter the character of the surrounding area." The Application does not appear to conform to the LUO standards.

GOAL 3, PARTITION TRACT A

Tract A lies is open space at the entrance to both Sahhali South and Sahhali Shores. Applicant proposes to remove Tract A from 'open space', and divide and sell it as two lots. These lots have been designated as open space for the development since inception. Additionally these lots are the only common space which is relatively level, centrally located and accessible. The substitute property is NOT of the same quality or character. I take issue with the implication that taking Tract A from open space "will not alter the character which substantially limits, impairs or prevents the use of surrounding properties for permitted uses." Furthermore the application lacks detail that describes their assertions and positions.

GOAL 5, ADOPT CONSISTENT SET BACKS

CHANGE OF CCRs BY APPLICATION OF TILLAMOOK COUNTY LAND DEVELOPMENT ORDINANCE (LDO)

I do not think the provisions of the Tillamook County Land Development Ordinance can be applied to a change to the CCRs as set forth in Application Goal 5. The Land Development Ordinance prohibits changes to CCRs as part of that review process. Application p. 27, LDO Section 120 (3)(c).

Alteration: LUO REVIEW CRITERIA 6.040 (4)

The implications of a adjusting the distance between structures in a non-urban area. The proposed changes would have substantial impacts on the safety, and privacy of daily life as well change the character of the Development.

Thank you in to the staff and the Planning Commission for the opportunity to this testimony.

Sincerely,

Brenda Freshman

Address: 6715 Pacific Overlook Drive, Neskowin Oregon, 97149

Phone: 541-921-7593

Email: Brenda.Freshman@csulb.edu

Submitted by email February 14, 2021 addressed to mjenck@co.tillamook.or.us and ltone@co.tillamook.or.us.

Brenda Freshman, Ph.D.
Professor, Health Care Administration (HCA)
HCA Internship Coordinator
California State University, Long Beach
1250 Bellflower Blvd.
Long Beach, Ca 90840-0106
Brenda.Freshman@csulb.edu

From: Brenda Freshman < Brenda. Freshman@csulb.edu>

Sent: Sunday, February 13, 2022 11:46 AM **To:** linda angelo <wyattlindaangelo@gmail.com>

Subject: Re: Letter

Hello Wyatt,

Please see my letter attached. I'm losing my computer for 5 days, not traveling. can you take this in. I'll also email to the addresses provided.

Thank you, Brenda

Brenda Freshman, Ph.D.
Professor, Health Care Administration (HCA)
HCA Internship Coordinator
California State University, Long Beach
1250 Bellflower Blvd.
Long Beach, Ca 90840-0106
Brenda.Freshman@csulb.edu

From: linda angelo < wyattlindaangelo@gmail.com>

Sent: Saturday, February 12, 2022 12:52 PM

Subject: Letter

CAUTION: This email was sent from an external source.

Application (58 pages) is available by querying Sahhali South after going to the community development tab at the county website and you should be able to find the review criteria in the Land Use Ordinance (Section 6) there or by a google search. Wyatt

Tillamook County Department of Community Development

1510-B Third Street

Tillamook, OR 97141 Re: Application 851-22-000003-PLNG

Submitted for acceptance is this written testimony of the Brenda Freshman, Trustee for Brenda Freshman Living Trust, owner of Lots 2 and 3, Sahhali South, with reference to the above Application. These comments are submitted to addresses Request 3,"Partition Tract A," and Request 5, "Adopt Consistent Setbacks, Amend CCRs Section 10.13, Addendum to Master Plan."

I also request the opportunity to present oral testimony at the hearings in February and April.

My current written comments to be forwarded to the Department of Community Development, and Planning Commissioners are as follows:

THE APPLICATION IS DEFICIENT/INCOMPLETE

The County Development Approval Procedures (LUO 10.020 (6)(v)) requires that applications "contain a detailed statement that demonstrates how the proposal meets all approval criteria . . ."

The Application's "detailed statement" as to approval criteria 4 (LUO SECTION t6.040) at page 22 states:

"The 2021 Amendment to Sahhali South Planned Development Subdivision does not alter the character of the surrounding area in any way that substantively limits, impairs, or prevents the use of surrounding properties for the permitted uses listed in the underlying zone. The 2021 Amendment to Sahhali South continues the development character of detached and attached single-family-dwellings with the Sahhali South 2005 and 2007 decisions."

I disagree with the applicants assessment as the proposed amendments would directly change the character of the landscape and the use of the property.

The statement in the Application is vacant of the detail required to address how the changes sought do "not alter the character of the surrounding area." The Application does not appear to conform to the LUO standards.

GOAL 3, PARTITION TRACT A

Tract A lies is open space at the entrance to both Sahhali South and Sahhali Shores. Applicant proposes to remove Tract A from 'open space', and divide and sell it as two lots. These lots have been designated as open space for the development since inception. Additionally these lots are the only common space which is relatively level, centrally located and accessible. The substitute property is NOT of the same quality or character. I take issue with the implication that taking Tract A from open space "will not alter the character which substantially limits, impairs or prevents the use of surrounding properties for permitted uses." Furthermore the application lacks detail that describes their assertions and positions.

GOAL 5, ADOPT CONSISTENT SET BACKS

CHANGE OF CCRs BY APPLICATION OF TILLAMOOK COUNTY LAND DEVELOPMENT ORDINANCE (LDO)

I do not think the provisions of the Tillamook County Land Development Ordinance can be applied to a change to the CCRs as set forth in Application Goal 5. The Land Development Ordinance prohibits changes to CCRs as part of that review process. Application p. 27, LDO Section 120 (3)(c).

Alteration: LUO REVIEW CRITERIA 6.040 (4)

The implications of a adjusting the distance between structures in a non-urban area. The proposed changes would have substantial impacts on the safety, and privacy of daily life as well change the character of the Development.

Thank you in to the staff and the Planning Commission for the opportunity to this testimony.

Sincerely,

Brenda Freshman

Address: 6715 Pacific Overlook Drive, Neskowin Oregon, 97149

Phone: 541-921-7593

Email: <u>Brenda.Freshman@csulb.edu</u>

Submitted by email February 13, 2021 addressed to mjenck@co.tillamook.or.us and ltone@co.tillamook.or.us.

Peter and Stephanie Sammons 3508 SW Gale Ave Portland, OR 97239

Sarah Absher, CFM, Director
Tillamook County Department of Community Development
1510-B Third Street
Tillamook, OR 97141

Dear Sarah-

We are writing in regard to Notice of Public Hearing 851-22-000003-PLNG, Sahhali South Replat.

We have owned our home in Sahhali South (Lot #29) since August 2008. We are concerned about the Sahhali South Replat Amendment Requests that are being proposed and the impact these changes will have on maintaining the value of our home and the integrity of our neighborhood.

The specific amendments that we are most concerned with are the following:

3. Partition Tract A: Open Space into (2) Lots:

We feel that the trade between the open space and Lots 13a and 13b is not an equitable trade. The open space is flat and Homeowners have been discussing using it to create a community gathering place or neighborhood park. Lots 13a and 13b are very steep and would not be usable for a community park or gathering space.

5. Consistent Setbacks: Master Plan and CCR Section 10.13 Amendment Language:

Currently, the side setback on single family homes is 15 feet (CCR 10.13) but the amendment requests that single family homes be allowed with a side setback of 5 feet. The original 15 feet setback for single family homes and 10 feet side setback for attached living units (townhomes) was established to preserve and stabilize the value of the property; aid in the provision of fire and police protection; preserve access to adequate light and air; facilitate the provision of community services such as water supply, utilities and propane delivery; and to protect and enhance the appearance of the landscape. We are concerned the change in side setback for single family homes from 15 feet to 5 feet (page 11 of Replat Amendment Request) will devalue our property, change the consistent "Planned Community" (CCR 1.13) that exists today and potentially impact the "Natural Features" (CCR 8.1) including flora, fauna and wildlife corridors that exist between our properties.

6. Allowed Land Use: Master Plan Amendment Languages:

We are concerned that this request is being made. Our current CCR (15.6 Amendment) states that a vote is needed to change the CCR: "this Declaration may be amended at any time

by an instrument approved by not less than seventy-five percent (75%) of the total votes of each class of members that are eligible to vote".

These amendment requests were not presented to the Class A Members of the Association for either discussion or vote. In forwarding this proposal to the Tillamook County Planning Commission without adhering to the CCR 15.6 Amendment requirements, it appears the Declarant is not fulfilling the fiduciary responsibility to act in the best interest of all Sahhali South owners.

We feel that both of the amendment requests 5 and 6, which are detailed on page 11 of the Sahhali South Replat Amendment Request document, are in violation of CCR 15.6. The sentence that is the most concerning is: "The Architectural Review Board may approve a proposal that does not comply with these setback requirements pursuant to CCR Section 11 Architectural Review Board". We feel this amendment request is too general and allows too much freedom to the Class B Member (the Declarant) in making decisions that could impact the overall value and integrity of Sahhali South. These requests may also be in violation of the Neskowin Rural Residential Zone (NeskRR) land use.

We are also concerned with the language change in CCR 10.3.1 on page 12 of the Amendment Request document. Currently our CCR states the following: "shall be maintained in full compliance with the zoning restrictions of Tillamook County". The amendment request asks that the language be changed from being compliant with Tillamook County zoning to "consistent with Applicable Criteria and the Sahhali South Planned Development decisions". We believe this request is not in the best interest of the Sahhali South minority owners and will jeopardize the consistent future development of Sahhali South and the value of our property.

In conclusion, we are concerned with the requests being made to change not only the replat of Sahhali South but to make amendments to the CCR. When we purchased our property, we believed the CCR was designed to protect both Class A and Class B Members. The amendment that are being presented lean strongly in favor of the Class B Member (the Declarant) and do not reflect responsibility to minority owners.
We appreciate your consideration,
Peter Sammons
Stephanie Sammons

Tillamook County Planning Commission 1510 - B Third Street Tillamook, OR 97141

Re: Permit ID # 851-22-000003-PLNG

I am a permanent resident and homeowner of Lot 43 in Sahhali South and have been living here full time since October 31, 2019. I am responding to the "Request for replat of a subdivision plat approval for a portion of "Sahhali South" together with Conditional Use request #85 1-22-000003-PLNG-01, to amend the Planned Development Master Plan." This is my written testimony to be included in the staff report on the Sahhali South Application for Replat application #851-22-000003-PLNG. I ask to also be included in providing oral testimony.

I am registering my objection to the following items in this Land Division Application request as presented to Tillamook County Planning Commission, and request that they not be approved.

Item 1 - I do not have an objection

Item 2 − I do not have an objection

Item 3 – OBJECTION Partition Tract A: Open Space into (2) Lots. I object to the open space conversion to building lots:

- a) When I was considering purchasing a home in Sahhali South (more specifically Lot 43), I did so while factoring in the open space immediately across the street. Since the existing homes were a bit close together, I felt the space would provide a sense of openness that would offset any density from the other homes. The relocation of this open space for the more steeply sloped, inaccessible areas of lots 13A and 13B is <u>not</u> a comparable exchange.
- b) Having worked for new home construction developers for most of my 40 plus year career (one builder for over 18 years), I had an expectation the developer would continue with the plan presented to me prior to my purchase. I always made sure I worked for developers who committed to do the right thing by honoring the proposed plan and promised expectations of their homebuyers. This is not consistent with the goals and policies of the Sahhali South Comprehensive Plan. Also, adding to the number of building lots increases the density of the development and decreases the views of residents to both the mountains and the ocean.
- c) The residents of Sahhali South have been considering uses for the open space on the corner of Heron View and Proposal Point. The central location of this open space and the flat ground area make this a perfect location for a community gathering place, recreation or potentially a future community center (as identified on page 14 of the Master Development Plan). Several residents

- have already taken the time to clear some of the weeds and plant wildflowers and plants. Elk and deer graze in this area contributing to the character of the community.
- d) This change would alter the character of the surrounding area in a manner which limits and impairs the use of the surrounding area and non-beach recreational opportunities in the development. The community will be unable to utilize the open space currently in lots 13A and 13B steep slope.
- **Item 4 OBJECTION** to replating and exchanging open space to the east of current 13B for the open space proposed to the west of 13A. Note that this is <u>not</u> an acceptable open space exchange for the current open space now referred to as A-1 and A-2. It is also not acceptable due to the fact that the new 13B proposed replat blocks the view line for lots 9–12.
- **Item 5 OBJECTION** This change to setbacks would require a vote by the owners of Sahhali South to amend the CC&R's.
 - a) Applicant does not have the sole right to amend SS CC&R's as set forth on page 13 of application.
 - CC&R'S section 3.4.1 provides that I am a class A member of the association.
 - Setbacks for lots are found in section 10.13 of the CC&R's.
 - The sole procedure for amending the CC&R's is set forth in section 15.6 requires a vote of association members of both classes and the approval of not less than 75% of <u>each</u> class of members.
 - No such vote has been held, scheduled or even noticed and the Applicant has been silent on doing so.
 - b) The Proposed Amendment to Recorded CC&R Section 10.13 will increase the density of the development, reduce views and will affect properties outside of the "subject properties boundaries" in the application identified in Exhibit A page 7.
 - c) This does not meet Tillamook Land Use Ordinance Section 1.020 Purpose. The proposed setbacks will not serve the purposes listed which are to "encourage the orderly development of land, . . . to preserve and stabilize the value of property; aid in the provision of fire and police protection; facilitate the provision of community services (water, propane) prevent undue concentration of population, protect and enhance the appearance of the landscape and to protect and promote public safety."
 - d) Under Tillamook Land Use Ordinance section 6.040 Review Criteria:
 - Section 3: The remaining lots in the subdivision are not suitable for a setback change based on size, shape, location, existence of improvements.
 - Section 4: The proposed new setbacks will alter the character of the surrounding area in a manner which impairs or prevents the use of surrounding property for residential, recreational purposes.
 - e) Close setbacks on the side like this will make it difficult to repair or install utilities along sides of house.
 - f) This is a substantial change in the appearance of the subdivision as it exists and the landscape, as currently all dwellings are spaced 20 feet apart.

Item 6 – OBJECTION This change to allowed land uses would require a vote by the owners of Sahhali South to amend the CC&R's. Section 15.6 of the CC&R's states that <u>each</u> class of ownership has to approve a change in the CC&R's by 75%. No such request for change has been presented to the residents and owners of property in the development, nor has a vote been conducted. The Proposed Amendment to Recorded CC&R Section 10.3.1 removes the requirement for full compliance with the zoning restrictions of Tillamook County. Making the allowed land uses less restrictive and subject only to the developer run Architectural Review Board, that allows no other owner or resident participation, is not in the best interest of the resident owners of the development.

I look forward to discussing these issues with the Commission in the hearings scheduled for February and April.

Sincerely,

Pam Johnson

45050 Proposal Point Drive (Lot 43)

Neskowin, OR 97149

Pam Johnson

pami714@gmail.com

(949) 933-9012

Melissa Jenck

From: Christopher Diani <christopher.a.diani@gmail.com>

Sent: Tuesday, February 15, 2022 2:51 PM

To: Lynn Tone; Melissa Jenck

Cc: Diani Christine

Subject: EXTERNAL: Written testimony for Application 851-22-000003-PLNG

[NOTICE: This message originated outside of Tillamook County -- DO NOT CLICK on links or open attachments unless you are sure the content is safe.]

Tillamook County Planning Commission:

This letter is submitted as written testimony by Christopher & Christine Diani, with ownership interest in Lot 35 (45180 Proposal Point Drive, Neskowin, OR 97149) in the Sahhali South Development. We request that it be included in the packet being prepared for the Planning Commission for its scheduled hearings on the above referenced application. We would like to address Application Request 3 (partitioning Tract A into Lots A-1 and A-2) and Application Request 5 (adopting consistent setbacks).

REQUEST 3, PARTITION OF TRACT A

This tract is on level, easily accessible land at the entrance to the Sahhali South development. To our knowledge it is the only open space in the development that could be used as a small neighborhood park.

We object to the Applicant's request that this tract be divided into two purchasable lots, A-1 and A-2, and that a very steep, inaccessible parcel of land be substituted as the community's open space. The Applicant's new open space would be located next to proposed Lots 13a and 13b. This would eliminate any suitable, accessible space for a neighborhood park and likely alter the character of the surrounding area in a manner which substantially limits, impairs or prevents the use of surrounding properties for the permitted uses listed in the underlying zone.

In addition, this appears to violate our current Declaration of Covenants, Conditions and Restrictions of Sahhali South (CCRs). Section 6.4 of our CCRs states that every Owner shall have a nonexclusive right and easement of enjoyment in and to the Common Property, which shall be appurtenant to and shall pass with the title to every Lot. This is simply not possible on the proposed steep, inaccessible land the Applicant is proposing as common property. It appears that Request 3 disregards the interests of current and future owners while focusing solely on the interests of the Applicant.

REQUEST 5, ADOPT CONSISTENT SETBACKS

The current setbacks, as set forth in our CCRs are between 10 and 15 feet. Our objections to the proposed 5 foot setbacks are as follow:

- It is inconsistent with current setbacks for the homes in Sahhali South and the nature of the development. 5 foot setbacks and the potential of homes being built with only 10 feet between them significantly alters the character of the surrounding area.
- It increases the risk of fire spreading rapidly to adjacent structures.
- Given the increased possible impact of fire with structures this close to each other, this proposal may detrimentally affect homeowners' insurance premiums.

- This proposal, by being submitted to the Planning Commission for approval, appears to be circumventing the defined process of modifying our adopted CCRs.
- The applicant initiated the request to have the Planning Commission approve a change to the setbacks with no prior notice to (or input from) current owners.

Thank you for your consideration of our concerns.

Kind regards, Christopher & Christine Diani To the esteemed members of the Tillamook County Planning Commission:

My name is Jennifer Bierce, owner of tax lot 3500, Lot 52 in Sahhali Shores; located at 45015 Proposal Point Drive, a neighboring Lot to Tract-A, which is currently under review to replat.

I would like to voice my opposition to **851-22-000003-PLNG**, specifically as it relates to the replat of Tract-A (currently designated as Open Space), to not one, but two, buildable tax lots.

Based on the materials provided, the suggested replat does not meet the following Review Criteria as outlined in Section 6.040 and Section 3.520(3)(b).

Section 6.040(3): The parcel is suitable for the proposed use considering its size, shape, location, topography, existence of improvements and natural features.

• Dispute:

- o The proposal requests current setback guidelines be revised from 30' at side yard to the Tillamook County minimum at just 5' an 83% reduction. The interior yard setback requests a reduction from 15' minimum, to 5' representing a 67% reduction from current standards. Lastly, the side street setback is requested to be reduced from 20' to 15' a 33% reduction from current standards. Given the proposal requires a remapping of setback lines, it confirms that it is not suitable for the proposed use without extreme augmentation of current county rules and ordinances.
- o In the proposal shared, the developer claims that lots 14-19 are currently too narrow to build on (approx. 50' width); however, the replotting of Tract A would make the proposed lot A1 and A2 (approx. 32'-38' width) too narrow by the proposer's own guardrails. This represents an inconsistency in the logic and guidelines within the proposal with the developer applying a different set of rules to each lot based on his desired outcomes.

Section 6.040(4): The proposed use will not alter the character of the surrounding area in a manner which substantially limits, impairs, or prevents the use of surrounding properties for the permitted uses listed in the underlying zone.

• Dispute:

The proposal requests current setback guidelines be revised from 30' side yard to the Tillamook County minimum at just 5 ft. – an 83% reduction. The interior yard setback requests a reduction from 15' minimum, to 5' – representing a 67% reduction from current standards. Lastly, the side street setback is requested to be reduced from 20' to 15' – a 33% reduction from current standards. My home, directly neighboring Tract A, which recently completed building in November of 2021, was subject to 15' setbacks at the side yard in line with the current Sahhali South standards to which the developer would like to reduce by 67%. It is incongruous that two neighboring lots could have such vastly different rules as it relates to setbacks and buildable space on our properties.

- Tract A is currently home to amazing wildlife including, but not limited to, deer and elk grazing on this Open Space land almost daily. The proposed removal of this Open Space in favor of two single family home lots is unlawful and in direct contradiction to the recently passed Oregon House Bill 2834, which states:
 - Relating to wildlife corridors. Whereas the state of Oregon is home to a rich array of wildlife and landscapes; and Whereas biodiversity and habitat connectivity play a vital role in Oregon's economy and in ensuring a sustainable future for current and future generations of Oregonians; and Whereas habitat loss and fragmentation are major contributors to declines in populations of native fish, marine life and terrestrial wildlife; and Whereas wildlife corridors serve to connect wildlife habitat areas and allow for the movement, migration and dispersal of fish, wildlife and plant species; and Whereas, in addition to other benefits, wildlife corridors provide ecosystem services such as pollination, air and water purification, carbon sequestration and disturbance prevention; and Whereas wildlife corridors increase public safety and are highly effective at reducing vehicle wildlife collisions and the costs associated with those collisions; and Whereas formally designating and protecting wildlife corridors is a crucial strategy for bolstering Oregon's ecosystem resiliency and for ensuring the long-term viability of wildlife population and communities; now, therefore, Be It Enacted by the People of the State of Oregon: **SECTION 1. (1)** The State Department of Fish and Wildlife shall...preserve long-term habitat connectivity for wildlife as defined in ORS 496.004. The plan shall provide guidance for all state agencies to develop benchmarks for the designation and protection of wildlife corridors in Oregon.
 - In order to protect our wildlife, their migratory patterns and fragile ecosystem on the Oregon coast, we cannot replace the Tract A Open space with two buildable lots. The replacement Open Space that the developer is proposing is located on an uninhabitable, cliff side that is currently too treacherous for wild life or humans to safely navigate. (Please see Exhibit B)
 - By removing this open space and converting it to two buildable lots, we will be taking away the precious habitat for our wildlife and destroying the natural beauty of the Oregon Coast. We will also increase the chances of wildlife/vehicle collisions with the increased urbanization of the community. According the Pew Research Center: Oregon's "mule deer population has been below the Oregon Department of Fish and Wildlife (ODFW) management goals for at least 30 years and declined by 95,000 animals from 2015 to 2017, in part because of collisions with vehicles". The addition of these buildable lots will further denigrate the wildlife population and result in heightened safety risks for animals and drivers alike.
- o The proposed NEW Open Space is an uninhabitable cliff side that is not only not suitable to build on, but also not suitable to the animals that currently thrive in

- Tract A. Please see Exhibit A and B for commentary regarding accessibility and use.
- The addition of buildable lots A-1 and A-2 would be detrimental to the neighborhood safety as these lots are located at a major North/South and East/West Intersection between the Sahhali Shores and Sahhali South communities. The addition of lots A-1 and A-2 would result in diminished (impaired) visibility for drivers and increase the danger of automotive accidents at a busy intersection between two communities.
- o These 2 new lots will also add 4 concrete/asphalt driveway aprons to the east side of Proposal Point Dr. putting more cars into the nearby intersection and tangentially across from the 4 westside Proposal Point Dr. driveway aprons creating more traffic interplay.
- O This proposal represents the increased urbanization of what had originally been deemed a rural community; by squeezing in two additional buildable lots to what was once Open Space, we are increasing the harmful impact on the community infrastructure, not only impacting the safety of those living within the community but also creating a detrimental impact on the coastal wildlife that currently grazes and roams on the Tract A Open Space.
- o Tract A location is currently at the epicenter of the Sahhali South development and the surrounding area. Its 260' east west longitudinal lot line is significantly larger than any lots currently on the market. This extensive lot line will permit a monstrously long wall like home fitting within 144' east-west building envelope line. This huge potential structure would far eclipse any existing building now measured on the same east/west axis and "substantially limit, impair [and] prevent the use of surrounding properties" to enjoy our current community and the wildlife we love that live within it. Please note:
 - The two closest Heron View tax lots combined [#900 and #1000] on 0.20 acreage are only 62' combined east/west. More acreage but smaller east/west line interference and impairment silhouette.
 - The closet Proposal Point Dr. with tax lot homes #4400 and #4500 measure just 71' east/west line beyond the 32' concrete driveway apron.
 - These tax lots are all 50% smaller than the proposal.
- The conversion of Tract A from Open Space to two, buildable lots, would also greatly impair my current South facing Ocean views and impede on my overall property value and desirability. My south facing ocean view is currently an impressive view of the Oregon Coast's beautiful cape bluffs, however if this proposal is approved, I would lose this view, and instead see not one but two homes directly next to my own. I purchased my land with the understanding that Tract A was Open Space and therefore would never be buildable, thus protecting my pristine ocean view, the proposal "substantially limits, impairs" and prevents the use of my surrounding property thus in direct disagreement with **Section 3.520(3)(b) (7). (Please see Exhibit A)**

Section 6.040(6): The proposed is timely, considering the adequacy of public facilities and services existing or planned for the area affected by the use.

• Dispute:

- o Tract A has been deemed Open Space since the community inception in 2005 (17 years ago). The developer submitted revisions to his community plan in 2007 a reasonable amount of time from inception and the proper time to submit additional desired replats. Now, 17 years from inception and 15 years from his revised land use ordinance, the proposal is now requesting yet another replat, specifically of an Open Space that has remained as such for 15 years.
- o According to even the most liberal statute of limitations of 10 years (in accordance with the IRS Federal Statute of Limitations), the proposer is at minimum 5 years past due his time to redraw the lines of our communities.
 - Since this statute has expired, the 3 contiguous lots Lot 51, 52 and 79 all sold, with the understanding that after 15-17 years of designation as an open space, Tract A would remain an open space in perpetuity.
- o I implore the Commission to state how many similar unit developments have gone through not one, but 3 replats since their inception, and ask over what time period those occurred? Is 15 years a reasonable amount of time to request changes that will impact the community so egregiously? Given it is far beyond even the most liberal statute of limitations, I think not.
- O Furthermore, the Developer has surreptitiously failed to disclose the existence of Tract A as a designated Open Space on any of his listings at least since January 2020, likely in hopes that his proposal to replat would be approved. On the contrary, Tract A has been deemed "Open Space" annually for more than 12 years on the Tillamook County Taxation subdivision website (plot map and lot-owner matrix). If this designation can be redefined/replatted at the whim of Developers, Tillamook County Planning Board should provide a warning to all current and potential buyers that a designation of Open Space apparently means nothing, and can be changed at any time. For example:
 - WARNING: This is a notice informing you the public that Tillamook County Taxation and Assessment subdivision maps may show "open space" parcels. Do not ever assume these are permanent as the developer can apply at any future date to arbitrarily remove this designation and convert same parcel to 1 or more building lots. <u>Caveat Emptor</u> to all prospective buyers, these so called "open space" individual lots can be altered at any time beyond any known statute of limitations.

Section 3.520(3)(b) (2): Resulting development will not be inconsistent with the comprehensive plan provisions or zoning objectives of the area.

• Dispute:

The proposed development would be inconsistent with the comprehensive plan provisions or zoning objectives of the area as it seeks to reduce setbacks by 67%-83% and eliminates natural, open space that is precious to the community inhabitants and surrounding wildlife. Please see previously stated disputes above as to why this development would be inconsistent with the comprehensive plan provisions.

Section 3.520(3)(b) (5): The parcel is suitable for the proposed use, considering its size, shape, location, topography, existence of improvements, natural features.

• Dispute:

- Given the proposal also requires a remapping of setback lines, it confirms that it is not suitable for the proposed used without extreme augmentation of current county rules and ordinances.
- o Additionally, in the proposal shared, it claims that lots 14-19 are currently too narrow to build on (approx.. 50' width), however, the replotting of Tract A would make the proposed lot A1 and A2 (approx. 32'-38' width) too narrow by the proposer's own guardrails.

Section 3.520(3)(b) (7): The proposed use will note alter the character of the surrounding area in a manner which substantially limits, impairs or prevents the use of surrounding properties for the permitted uses listed in the underlying zone.

• Dispute:

o Please see dispute reasons outlined in **Section 6.040(4)** above.

Based on the above facts, it would be inconsistent for the Tillamook County Planning Commission to not maintain original open space Tract A designation and placement.

I appreciate your consideration and thoughtfulness in this decision, and hope that you choose not to approve the replat of Tract A.

Thank you, Jennifer Bierce Owner Tax Lot 3500 – 45015 Proposal Point Drive, Neskowin, OR 97149 Exhibit A: Photos taken from South Balcony fo Bierce Resident (Lot 52, Tax Lot 3500): Tract A is a very gently sloping and easily accessible for all residents, including handicapped, disabled or senior citizens. Proposed Open Space is steeply sloping and inaccessible to many current or future residents, as it is discriminatory to handicapped, disabled or senior citizen as it is very challenging to use. Proposed open space would require 36 Proposal Point Lot owners to travel at least twice as far to use a Thalassa Street culdesac.

Per the photos, the addition of two homes in this location would eliminate my south facing views impacting my overall property value, and causing safety concerns of 4 driveways emptying out into the same thoroughfare:

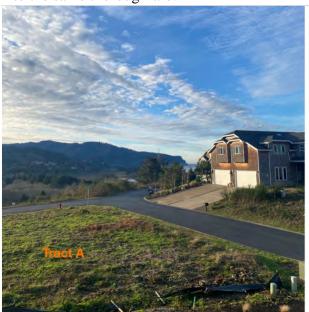






Exhibit B:

Proposed Open Space is steeply sloping, inaccessible and extremely difficult to many current or future residents, as it is discriminatory to handicapped, disabled or senior citizen residents. Proposed open space would require 36 Proposal Point Lot owners to travel at least twice as far to use a Thalassa Street culdesac.





Sahhali Shores at Neskowin COA

44495 Sahhali Drive Neskowin, OR 97149

Website: www.sahhalishores.org

February 15, 2022

To: Tillamook County Planning Commission

Re: 851-22-000003-PLNG request for replat Sahhali South subdivision

It has come to our attention that the developer of the Sahhali South subdivision has requested a replat of that neighborhood. As our community is directly adjacent to Sahhali South any replat of that neighborhood will have a direct impact on the feel of our community. Of particular concern are two items in particular:

- 1) Changing the setbacks to allow homes to be within 5 feet of the property boarder. According to Tillamook Land Ordinance 3.320 the intent is to maintain the rural character of the Sahhali area (Sahhali Shores and South Sahhali). This will allow homes to be only ten feet apart and create much more density and take away from the rural feel of the neighborhoods that exist now with the 10 foot setbacks (which limits homes to within 20 feet of each other). Although that type of density may fit other parts of Neskowin and the County in general the Sahhali area has been specifically developed with a more rural feel with less density.
- 2) Replating Tract A from open space/undeveloped into 2 single family lots. In addition to the density concerns as outlined above this change in development would have a large impact on homeowners in Sahhali Shores who are adjacent to this tract. Their lots and homes have been bought and plans for homes have been designed to enjoy the open space near their home based on the original plat. Allowing homes to be built on that space is unfair to homeowners who were promised open space by the original plat map.

The community of Sahhali Shores appreciates you allowing us to provide our feedback on the proposed changes.

David McDonald, DVM President, Sahhali Shores at Neskowin COA

Melissa Jenck

From: Lorrie Hallman <lorrie12@gmail.com>

Sent: Friday, April 1, 2022 9:56 AM

To: Melissa Jenck

Subject: EXTERNAL: Replanting of Sahhali South

[NOTICE: This message originated outside of Tillamook County -- DO NOT CLICK on links or open attachments unless you are sure the content is safe.]

I am a resident of Sahhali Shores, the neighborhood adjacent to Sahhali South. I strenuously object to the replatting plan submitted to the county by the corporate owners of the land in question.

We overlook the property and must drive through it to get to our house. We purchased our property with the knowledge that Sahhali South would continue to adhere to their own stated and approved plans.

The corporation that owns Sahhali South is clearly interested in making as much money as possible from their land before their property has enough private owners that the Sahhali South community can form their own HOA and prevent such disruption of the character of the community and the wildlife therein. They are destroying the trees and natural shrubs that support wildlife and turning the land into an urban subdivision like so many others.

The 2 neighborhoods, Sahhali Shores and Sahhali South, share the same entry and the same road, Sahhali Drive. Changing the setbacks from 15 feet to 5 feet would alter the perceived character of my neighborhood as well as Sahhali South. The development of their lots on Sahhali Drive would allow 5 homes set back just 5 feet from said road and radically change the appearance of BOTH communities from Hwy 101.

The same corporation owns the property north of Sahhali Drive which they have called Sahhali North. I am concerned that they will apply for the same reduced setbacks for this as yet undeveloped tract. Our neighborhood which does have 15 foot setbacks will then be surrounded with an outdated Californian subdivision that squeezes as many buildings and people as possible into what was a rural community. The wildlife and the coastal character of this property will then be completely destroyed.

I hope you will take this overview into consideration when you make your decision.

Lorraine Hallman 5705 Sahhali Drive Sahhali Shores To the members of the Tillamook County Planning Commission:

My name is John Golightly, owner of Tax Lot 1000, Lot 22 in Sahhali Shores; located on Sahhali Drive, Neskowin.

I write to you to object to the proposed replat of Sahhali South in Neskowin, filed as **851-22-000003-PLNG**.

Based on the materials provided in the developer's application, the suggested replat does not meet the following Review Criteria as outlined in Section 6.040 and Section 3.520(3)(b):

Section 6.040(3): The parcel is suitable for the proposed use considering its size, shape, location, topography, existence of improvements and natural features.

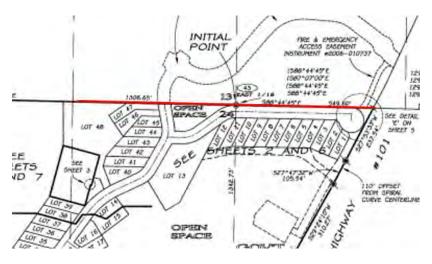
- Tract-A of the proposal would divide an already suitable open space (for community use) into 2
 narrow lots inappropriately sized for a home. One of the proposed lots would be as narrow as 50'
 with incredibly narrow side setbacks. Considering there is already a home built on the adjacent lot
 to the north (Tax lot 3500, Lot 52), this encroachment is not "suitable" considering the "size, shape"
 and "topography" of the lot.
- To maintain an "open space", the developer is proposing to move this current open space on Tract-A to another existing lot south of Tract-A which would be the western portion of current Lot 13. This lot is not "suitable" for a proposed purpose of an "open space". This is a steep lot (natural feature) that can serve no purpose, especially as an open space which is intended for community use. As shown in the Google Earth image below, which is necessary to see the actual topography, Tract-A (red outline) is relatively flat and accessible and "suitable" for its current intended purpose. The proposed new open space (orange outline) is not and cannot be converted as such.



Section 6.040(4): The proposed use will not alter the character of the surrounding area in a manner which substantially limits, impairs, or prevents the use of surrounding properties for the permitted uses listed in the underlying zone.

- A redevelopment of Tract-A would "substantially limit, impair and prevent the use" of surrounding properties for their permitted use. As noted above in relation to its current open space designation, the Tract-A platting proposal would have 2 very narrow lots, with very limited setbacks next to an already existing structure/home (Tax Lot 3500, Lot 52 in Sahhali Shores). One can easily predict given the narrow outline and limited setbacks, that any structure built on this property would be long, narrow, and tall (maximizing heights to attain their own views). The home, as a pre-existing occupied structure, already has established a "use of the surrounding property" that does not include a neighboring structure against almost non-existent setbacks. This home/property was significantly invested in as a view property since Tract-A already has a 17-year established platting as an "open space". As the "surrounding area", Tax Lot 3500 would suffer substantial limits, impairments, and prevention of its use if Tract-A were redeveloped with tall structures and narrow setback robbing Tax Lot 3500 of its view and investment. This would essentially be allowing the developer to benefit at the expense of a single property owner.
- The "surrounding area" in this case involves a property that has no "voting rights" on a future structure on Tract-A. The Tract-A property and its proposed future development directly affect another subdivision. The properties in the Sahhali Shores subdivision to the north are not eligible to participate in the ARB process of Sahhali South. This is likely another reason why Tract-A was designated as an "open space" and has been for substantial time, to create a neighborly buffer between the two subdivisions. When viewed as a whole, Tyee Court (in Sahhali Shores), and Tract-A plus Heron View (both in Sahhali South) form a congruent and consistent partition between the two subdivisions whereby no two properties between the subdivisons are sharing a property line. This arrangement minimized the risk of conflicts of interest between the two subdivisions. This is demonstrated below (next page) with approximate comparison of Page 85 of the developer's submittal

(https://www.co.tillamook.or.us/sites/default/files/fileattachments/community_development/project/70265/notice_of_public_hearing_website.pdf) and a satellite view from Google Map of the area. The red line in each indicates the separation of the two subdivisions. Even Lot 47 of Sahhali South is protected by Tyee Ct. to the North:





- A key Exhibit provided by the developer in their application
 (hearing_website.pdf) is Exhibit 2.1 starting on page 148 of the link provided above. This is the original Master Development Plan. By providing this as an exhibit of support to the application, the developer is attesting it is still applicable. However, there are elements of the exhibit which are no longer accurate and consistent with the proposed new plat. Specifically:
 - Page 157, Criterion 4 of Exhibit 2.1: The developer states "The proposed development is designed to replicate in feel and look this development."
 - This is referring to replicating Sahhali Shores to the North. This statement is no longer an accurate statement. By increasing the density of Sahhali South, the intent is no longer to replicate the look and feel of Sahhali Shores with its larger lots.
 - Page 157, Criterion 4 of Exhibit 2.1: The developer states: "The proposed layout of the development will not impact the scenic views of the adjacent subdivisions."

- This is wholly inaccurate with the proposal to replat Tract-A. As noted above, a replat of Tract-A will immediately impact the scenic view of the already developed and adjacent subdivision, minimally and specifically Tax Lot 3500.
- O As such, the conclusions drawn in the Master Development Plan are no longer valid. The replat proposal at a minimum should require the developer to openly and clearly state in a new Master Development Plan, in the same manner as in the original, how he is still meeting ALL of the criterion and the conclusions he draws with each criterion. He has materially changed the original conclusions and should be required to address this.

Respectfully, I ask that the application <u>not</u> be approved as submitted. In summary, the Tract-A replat alone violates multiple criterion, and when the application is taken as a whole, the Master Development Plan is no longer valid and the criterion no longer met to not impact the neighboring subdivision of Sahhali Shores.

Regards,

John Golightly
Tax Lot 1000, Lot 22 in Sahhali Shores; located on Sahhali Drive, Neskowin

To Tillamook County Planning Commission:

My husband and I live in Sahhali Shores (44570 Sahhali Drive). We were very concerned to learn of the proposed **851-22-000003-PLNG**, the replat of Sahhali South.

We came to Sahhali Shores because of the tranquil, quiet neighborhood. We are dumbfounded to learn that after over 15 years of the developer having maintained the same neighborhood design, that he is proposing to densify the Sahhali South community, bringing more homes and less open space in the area. This would materially impact Sahhali Shores and the tranquility of the community to now be surrounded by a neighborhood with 5' setbacks between homes.

More specifically, the suggested replat does not meet the following Review Criteria as outlined in Section 6.040 and Section 3.520(3)(b):

Section 6.040(3): The parcel is suitable for the proposed use considering its size, shape, location, topography, existence of improvements and natural features.

Section 6.040(4): The proposed use will not alter the character of the surrounding area in a manner which substantially limits, impairs, or prevents the use of surrounding properties for the permitted uses listed in the underlying zone.

• Dispute 1: Significant impact/impairment to the macro surrounding area of Neskowin and Highway 101

- O Visual Impairment would ensue if Tract A open space plat is split into the proposed 2 building lots. The developer shows a permissible building envelope on A-1 with the east/west longitudinal building's 144' width. This length structure will dwarf all existing Sahhali South and Sahhali Shores structures' width by at least 70'. Note: tax lots 900 and 1000 on Heron View Drive are only 51' wide while the Proposal Point Drive tax lots 4400 and 4500 are just 71' wide.
- O Combined with the developer's 30" height, whatever McMansion railroad train elongated structure is built here will permanently alter the landscape views from Highway 101 and Neskowin. The above-mentioned tax lot 4500 has just a 24' height structure but its nighttime light illumination is visible from Hwy 101.
- O Since A-1 elevation is equal to that of tax lot 4500 and will be 6' higher at 30', the proposed allowable building envelope is 144' east west long, it can be assumed this structure will be always visible, day or night.
- o When combined with the developer's 83% side setback downsizing, the very narrow 10' distance between A-1 and A-2 building structures will create a single east/west structure noticeable from Highway 101 that will appear as just one monstrous structure, not two.
- Dispute 2: Reputational impairment to the lovely town of Neskowin may occur when this permissible 144' wide A-1 structure is finished. Additionally, while the proposal may seem in accordance with Tillamook County setback requirements of a minimum of 5', when you take into account the vertical building heights of this proposal, Neskowin would have the most restrictive side yard setback requirements.

- According to City of Tillamook zoning there is a requirement to add 0.5' for each foot structure above 15' high. Since the developer's ARB height is 30', this results in an additional 7.5' to be added to the minimum 5'. Thus, the total side lot setback becomes 12.5' in the city of Tillamook vs. just 5' in Neskowin. This urban Tillamook County city then enjoys a 12.5' / 5' or 250% greater side setback requirement than one proposed for the bucolic rural Neskowin hamlet. This onerous stipulation drastically impairs the surrounding area as its side setbacks reduce the natural resource amenities view corridor by 58% [7.5' / 12'] over whatever view corridor exists in the City of Tillamook.
- o Additionally, should structure be built in the proposed A-1 lot, the resulting industrial warehouse length building incursion into a rural residential neighborhood may hurt the Neskowin aura of idyllic hills and untouched Oregon coastal landscapes.
- Removing the 17-year-old Tract A open space designation and converting the same into two building lots may also tarnish and stigmatize Neskowin as placing developer profits over environmental sustainability of our beautiful Oregon coast lines.
- o The developer's proposed downsized setback requests are the Trojan horse included to ensure that Tract A platted open space can be subdivided into not one but two buildable lots that will completely alter the nature of what is currently deemed to be a rural, coastal community.
- o The 17-year developer reconfirmed [15 years ago] the 30' side interior setback currently prohibits any building on Tract A despite the developer's attempt to slice it into 2 buildable lots.
- o More specifically, the proposed side setback reduction from 30' to 5' adds 25 additional buildable feet to each north/south building perimeter. The 83% setback shrinkage generates 25' more feet on either side. So, the math is 30'- 5'= 25' additional feet. 25'/5' = 500% increase in allowable footage allowed on each north and south total length.
- o Also contributing to a greater building envelope is the proposed side street setback decreasing 25% from 20' to 15'. This reduction in setback increases the building envelope where relevant by 33%.
- o These huge building envelope increases, and much less restrictive setbacks proposed are rifles designed to hit the Tract A bullseye and restrict all surrounding area views; depriving current and future residents of the area's natural beauty and forever altering the conditions of the Neskowin coastline.

• Dispute 3: Significant impact/impairment to the Micro surrounding area with significant densification to a once rural enclave.

- o The proposal would result in increased density on Proposal Point Drive (PPD) but especially on PPD between Heron View Road and Tyee Loop Ct. The developer's division of Tract A into two lots increases by 20% from 5 lots [tax lots: 4300, 4400, 4500 4600, and 4700] to 6 lots [tax lots 4300,4400, 4500, 4600, plus A-1 and A-2 tax lot numbers].
- o This increased density generates four new east side PPD driveway aprons possibly interlocking or overlapping with tax lots 4400 and 4500 own 4 driveway aprons. Tax lot 4600 two driveway aprons will add to potential interlocking A-2 two driveway aprons.
- o Not only does it generate increased density, but also much additional traffic that intrudes on Sahhali Shores tax lots located on PPD and Tyee Ct.
- The developer's density at what is the only major north/south and east/west intersection of Proposal Point Drive and Heron View Rd. could be reduced via Section 160 "Dead End Street". This states for roads under 2000' long, there's a potential available permitting up to

- 18 dwellings. This would alleviate traffic on Proposal Point Drive and decrease density as well.
- O Density could also be eliminated by keeping the proposed combined lot 48 as 48-A and 48-B separate. According to <u>realtor.com</u> both of these lots were Listed on Feb 4, 2021 and both went to sign contracts Pending March 24, 2021. It would be helpful to see these two signed contracts and ascertain why they are now proposed as combined.
- Dispute 4: Tax Lots 3400 and 3500 will be substantially impaired as the developer's proposed 260' property line, and creation of irregular, sliver lots will shut down both tax lots direct south facing views. Combined with the much narrower side lot setback will obstruct if not obliterate any view once the two 30' structures are built.
 - o Each building will now be 25' closer to each tax lot. Once a developer selects his desired setback formula for detached homes. it should become permanent after 17 years. The Tillamook County Planning Board should maintain its 2005 and 2007 consistent and coherent, disciplined reaffirmation of the 30' side setback requirement.
 - O The developer's setback downsized request is squarely aimed at converting irregular Tract A into two buildable lots while his lot #14-19 front street widening negates any required downsized setbacks as does revised lot 46. 48 and 13-a and 13-b.
 - O According to "Exhibit 2.1: Developers Summary Statement for Sahhali South Master Development Plan", the developer asserts "The proposed development is designed to replicate in feel and look this development. The proposed layout of the development will not impact the scenic views of the adjacent subdivisions." Respectfully, this is an utter lie, and the Planning Commission must disaggregate this assertion.
 - As a resident of the "adjacent subdivision", the eradication of Tract A open space plat and its proposed split into 2 lots will substantially marginalize/destroy somewhere between 90-150 degrees south and east of the existing unblocked 360-degree panoramic vistas.
 - Under the current setback rules, tract A 's single plat affords unlimited and unhindered scenic views. The new downsizing setbacks are singularly designed to ensure Tract A can be converted into buildable lot status with no recognition or acknowledgement of scenic view corridor destruction that will inflict on neighboring lots in adjacent subdivisions.
 - The developer's proposed downsized setback adjustments will only further impair the limited scenic view incursion proposed above by the developer's unsubstantiated need to split Tract A into two building lots now after a 17-year status quo permanency as a single plat.
 - Why not add 1 lot or 2 or more on the new cul-de-sac Thalassa Drive proposed road whose unique Dead End Designation is mentioned by the developer himself? As he states, its unusual parameters permit additional homes without any density implications.
- Dispute 5: For the immediate surrounding area, reversing the developer's 17-yearold twice affirmed detached home 30' side setback to the proposed minimum 5' does not reflect consistency but rather developer inconsistency, contrary to the developer's proposed assertion.
 - 2005 Exhibit A conditional Planning Board approval was conditioned that "All areas designated as open space, common area or wetlands shall not be further subdivided for development purposes." The December 2007 Planning Board again re-stipulated the 2005 condition in its own 2007 Exhibit A Conditional approval word for word.

- On a micro level, these inconsistent proposed downsizing setbacks could be interpreted as designed solely to permit the developer to build on Tract A's two divided lots which are not currently buildable under the current 17 developer selected setback settings.
- O The developer in his original CCRs claims the right to choose which lots to build or annex; he expressly does NOT grant himself the right to request setback stipulations after 17 years. Granting the developer's proposed detached home new minimum setbacks would greatly impair the current 18 Sahhali South homeowners who bought believing the twice affirmed setback restrictions were permanent.
- O The current Sahhali South and Sahhali Shores lot/homeowners would also be impaired. What was considered a permanent view vista in place for 17 years is now proposed to change and impaired 83% narrower viewing bandwidth. These greatly reduced setbacks narrow or extinguish surrounding lot/homeowner views.
- o This added restricted and diminished vistas devalue their property investment as what was fixed and in place is now proposed to be arbitrarily changed.
- O As proposed, the new setbacks are asymmetrical and inconsistent with Sahhali Shores own setback parameters which the developer had previously affirmed twice 15 and 17 years ago. The increased building envelope permitted under these proposed new setbacks will not "replicate the feel and look" of Sahhali Shores with its greatly reduced side and interior yard setbacks. These downsized setbacks will create an inconsistent and very uneven mix while greatly destroying much of the scenic views neighboring lot owners in adjacent subdivisions currently enjoy and can experience. There will be a tale of two cities in these neighboring communities.
- Dispute 6: According to Tillamook County Article 4.11: Exception to Yard Setback Requirements The proposed request does not align to any of the small lot exceptions outlined and therefore must be denied by the Planning Commission.
 - o **4.11.5a:** SMALL LOT EXCEPTIONS: In the RR, CSFR, RC, CC, CR-1, CR-2, CR-3, RMH and RMD zones and including those communities with adopted community growth boundaries, a front or rear yard, but not both, may be ten feet, provided the following apply to the subject parcel:
 - (a) The parcel is 7500 square feet or less in size.
 - (b) At least one side yard is ten feet or more wide.
 - (c) Required off-street parking is provided.
 - (d) The right-of-way width at the front of the lot is at least thirty feet. In the case of right-of-ways under 30 feet in width, a ten-foot yard may be approved if it is approved by the Public Works Department.
 - (e) The lot is not a corner lot. If the lot is a corner lot and meets the above criteria, the front yard may be 15 feet.
 - o Developer proposed Lot A-1 is 9285 square feet and is 124% larger than the [a] required maximum 7500 square feet exception and therefore is NOT eligible for either a front or rear yard exception of 10' for detached homes contrary to Table 1 page 17 submission.
 - Not only is Lot A-1 ineligible for detached homes, but also NOT eligible for attached homes. Lot size again 9285 square feet exceeds the necessary exception limit of 7500 square feet.
 - o Developer proposed Lot A-1 is presented as having each side yard being just 5'. Since the [b] exception requires at least 1 side yard setback being 10', the developer 's proposed Lot A-1 fails this threshold test. Lot A-1 is therefore ineligible for the Section 4.11

- exception. Again, NOT eligible for detached homes contrary to Table 1 page 17 submission.
- o Proposed Lots A-1/A-2 is non-conforming and therefore not eligible for any exceptions offered in Section 4.11.5a and 4.11.5b; thus the Planning Board should deny its creation.
- Dispute 7: Tract A is currently an environmentally sensitive habitat for elk and deer. It is also centrally located within Sahhali South, and ADA compliant for all humans young and old to enjoy the natural views. It is easily accessible and very easy to use. Please see original submission, as current proposal is in direct violation of Oregon House Bill 2834 that seeks to protect wildlife corridors.
- Dispute 8: Neskowin is renowned for its very severe Pacific storms generating a lot of wintry rain and off the charts wind speeds; the proposal will increase opportunities for the creation of wind tunnels that can damage property and harm residents.
 - o Per the developer's Geotech report submitted with his large 5 lot Sahhali North April 2013 annexation, is a statement reporting wind gusts in the area are normally up to 110 mph. This 100+ mph wind was echoed in the developer's landscape section. Narrowing the setbacks 83% to just 5' will result in both A-1 and A-2 having just a combined 10' between their two structures. Since the same wind volume must travel through a smaller opening, the wind's velocity will increase potential debris impairment to leeward homes, traffic, and pedestrians.
 - o The developer's proposed narrower side setback to 10' [2 x 5' each lot] between adjoining lots A-1 and A-2 will increase the wind force on Heron View Road humans and property as the current 60' setback [2 x 30' each lot] allows for the wind to dissipate instead of accelerating through the much smaller opening between the 2 building lots.
 - o This increased danger to human life and property on these highest elevation Sahhali South lots should not be permitted as safety first concerns should override this.

Section 6.040(6): The proposed is timely, considering the adequacy of public facilities and services existing or planned for the area affected by the use.

- Dispute 1: If replating was "timely" the proposed requests would have been included in one of the two previous requests for rezoning by the developer.
 - o Although the developer could have used Tillamook County's 12/18/2002 Section 35 allowable 5' side setback in both its 2005 and 2007 reaffirmation, he did not. He chose the same consistent 30' side setback that Sahhali Shores elected. The choice of the matching Sahhali Shores 30" side setback may have been to account for public health and safety concerns as well have 500% wider scenic natural view corridor for all to enjoy.
 - o The developer is the only beneficiary to these downsized setbacks that afford him a 500% increase on 2 sides on the building home sides for adjoining lots to the detriment and impairment of surrounding lot/homeowners. Without these proposed downsized setback new figures, Tract A would no longer to be suitable to the developer to be sliced and diced into two building lots.
- Dispute 2: Sahhali South has experienced a boom in recent sales activity, it can only be assumed that those sales were made with the understanding that the 17-year-old community open space (Tract A) would not be significantly altered.
 - o No need to alter the current setback factors as the current 18 Sahhali South homeowners are fully adjusted to the current requirements. Sahhali South is experiencing brisk sales

- activity under the current existing setbacks so again there is no reason to adjust the setbacks. Within the past year as of today's date [March 24, 2022] according to www.realtor.com 8 Sahhali South lots are Pending: Lot # 6, 24, 25, 30, 31, 40, 48-A, and 48-B.
- o I assume the 8 Sahhali South lots pending will close scheduled post this application. When added to the existing homeowners, the combined total of current and pending future individual lot owners = 26, just 3 shy of the majority of current 56 lots. As soon as this happens, the developer loses his control over the Board of Directors of the Sahhali South Homeowners Association.
- O The proposed setback changes seem laser-focused to convert Tract A open space into 2 buildable lots to benefit the developer now. It seems incoherent he proposes this now when the market seems to have recognized the current open space as attractive. Given his brisk sales. These current/future buyers like his consistent 17-year-old prior setback attestations that bring a sense of permanence to them.
- o If the developer is so inclined to add additional buildable lots, why does he not replat the massive 10 acres lot of Sahhali North or any of the other Sahhali North lots planned that span 100' wide on Heron View Road? This appears to be an attempt to conceal the developer's further intent to densify the neighborhood despite annexing the Sahhali North lots in April 2013, he does not acknowledge their existence in his most recent replat request. (https://www.realtor.com/realestateandhomes-detail/Heron-View-Dr-Lot-1_Neskowin_OR_97149_M95860-69433)

Section 3.520(3)(b) (2): Resulting development will not be inconsistent with the comprehensive plan provisions or zoning objectives of the area.

- Dispute 1: Tillamook County defines "open space" as equivalent to "undeveloped land or park facilities belonging in common to the members of a property owners association. The open space, development density, and the layout of the streets in Cluster developments are designed to maintain the natural or scenic amenities of a site, and the minimum lot sizes in Cluster subdivisions are reduced to allow a proportionate increase in the density of the developed portions of the tract." The above Tillamook County Section 020 definition equates open space as being synonymous with public park facilities. As such implicit in "open space" is the assumed human interactive component requiring ease of access and ease of use.
 - o Inherent in the developer's proposed "swapping" open space from the Tract A (0.34 acreage) for his lot 13 (0.38 acreage) is his incorrect assumption of fundamental equivalence for the 2 parcels. He glosses over his "gently sloping terrain" description of Tract A and immediately equates it to his "steeply sloped" lot 13 statement as being equal substitutes.
 - o The problem with this developer assumption is it completely removes the human interaction component requiring ease of access and ease of use for children, handicapped, disabled, and senior citizens to enjoy. It also seems to contradict his earlier 2005 and 2007 submissions to those then serving Tillamook County Board representatives who I'm sure applauded his thoughtful foresight to lay out Tract A as the most accessible and easy to use "open space" central to ALL Sahhali South lot/homeowners.
 - o Instead of certifying to his earlier thoughtful open space inclusion near the major Sahhali South intersection, He has now shunted the proposed " =open space" designated area to a

peripheral cul-de-sac requiring current Proposal Point Drive homeowners to travel up to 3x the original distance to visit. Moreover, his suggested substitute on lot 13 all but ensures that unlike the aforementioned public park similarity, there is no ease of access or use for many humans.

• Please see Exhibit C – Bramble filled cliffside that the developer is proposing becomes the new open space.

Based on the above facts, it would be inconsistent for the Tillamook County Planning Commission to not maintain original open space Tract A designation and placement. I appreciate your consideration and thoughtfulness in this decision, and hope that you choose not to approve the replat of Tract A.

Thank you, Maria Veltre and Jon Wapner Owners, 44570 Sahhali Drive, Neskowin, OR 97149

Exhibit A: Tract A is a very gently sloping and easily accessible for all residents, including children, handicapped, disabled or senior citizens. Proposed Open Space is steeply sloping and inaccessible to many current or future residents, as well as discriminatory to handicapped, disabled or senior citizen. Proposed open space would require 36 Proposal Point Lot owners to travel at least twice as far to use a Thalassa Street culdesac.



To: Tillamook Planning Commission

From Jonathan Gehrs
Lot 43, Sahhali Shores development
5315 Whale Point Drive
Neskowin, Oregon 97149

Re: Proposed Re-platting 851-22-000003-PLNG

I am writing this letter to the Commission in opposition to the proposed re-platting of Tract A included in **851-22-000003-PLNG.**

Specifically, concerns over the following Review Criteria sections:

Section 6.040(3): The parcel is suitable for the proposed use considering its size, shape, location, topography, existence of improvements and natural features.

Section 6.040(4): The proposed use will not alter the character of the surrounding area in a manner which substantially limits, impairs, or prevents the use of surrounding properties for the permitted uses listed in the underlying zone.

For background purposes, my address and dwelling are in the Sahhali Shores neighborhood directly north of the property subject to the re-platting.

Concern 1 (Section 6.040(3): We located our property in this development assuming current platting and build requirements would not change. The County did an excellent job in its initial approval process for both the Sahhali Shores development and the Sahhali South development, to require the developer to create a very livable, open spaced neighborhood, fitting for an upper end development on the Oregon coast.

His current proposal is requesting reducing the lot setbacks from 10ft to 5 ft on the side lot boundaries, effectively squeezing in more lots into the development. In addition, he is proposing inside Tract A to swap the existing open space area with another area in the development that is not buildable and is currently overgrown with heavy underbrush and vegetation. This would also increase the building lots available for him to develop and sell.

The effect of his proposal adds density to this neighborhood, without a doubt. Density that was not designed into the development initially over 15 years ago and should not be allowed now. Current homeowners in both sections of the Sahhali neighborhood did not purchase lots and build their homes, assuming that the development would then become an urban neighborhood. The County should be concerned about this. This development was planned to provide large lots, lots of open space and common area, and to have the development "flow" with the surrounding natural environment, and also the wildlife that co habitats the area. As noted above, the livability of the neighborhood will be adversely impacted by the density that the developer is proposing.

The prosed swapping out of common area space is basically an "available land" grab, wherein the developer can shove in more buildable lots and take what is a great open space now, utilized by residents and wildlife, and build homes on it. The common area land that would be exchanged into, to say the least, is a challenging piece of property on a hillside, overgrown with underbrush and vegetation, which would not be used at all by residents or wildlife.

For the above reasons, I am respectfully requesting that the Commission deny the re-platting request, in that is does not meet the requirements of Section 6.040(3).

Concern 1 (Section 6.040(3): As noted above, we located our new home on the Oregon coast specifically in this neighborhood (Sahhali Shores), as we felt it had the most to offer from a livability standpoint, than any other development we had investigated.

The "feel" and "flow" of the neighborhood is amazing. The development was designed and initially approved by the County with large lots, open spaces, very little view impairment. It is unmatched in the way the neighborhood fits into the surrounding natural environment, where they co-exist together in harmony.

The approval of the re-platting will alter the feel of the neighborhood and the natural environment where the neighborhood resides. Re-platting will add more buildable lots, creating a more urban environment that is more suited to platted cities and villages, not rural developments on the Oregon coast that were specifically designed to provide larger lots, open spaces, coastal viewing. Adding more lots and reducing setbacks will assuredly affect view sight lines for existing homes in the neighborhood. In addition, adding buildable lots increases traffic and reduces the livability of the homes that are already built. This was not the intent of the platting of the initial development, and any modification of that plan should not be allowed now.

As noted above, in Concern 1, swapping current common area space for unusable common area space is just a land grab to create additional buildable lots. The swapped common area is not useable by the community nor wildlife, reducing the livability of the neighborhood, which prevents use of the common area that is a key requirement under Section 6.040(3).

For the above reasons, I am respectfully requesting that the Commission deny the re-platting requested in **851-22-000003-PLNG**, as it does not the requirements of **Section 6.040**.

Thank you for taking the time to review my comments and concerns. I have listed my two most concerning issues that affect our neighborhood. There are many additional concerns. Rather than listing them all out here, I would ask the Commission to carefully consider resident Jenny Bierce's filing in opposition to the re-platting, which has already been filed with the Commission. She has done an incredibly detailed job listing out all the concerns she has as an adjoining property to the proposed change, and the concerns of the neighborhood at large, I fully support Jenny's filing and the concerns she has noted therein.

Respectfully submitted, Jonathan Gehrs

To the esteemed members of the Tillamook County Planning Commission:

My name is Christine Gault, manager of Gault Properties, LLC, owner of tax lots 1700 and 1800 in Sahhali Shores at Neskowin and resident of 5705 Sahhali Dr. Our development is directly adjacent to Sahhali South which has a proposal currently under review to replat Tract A (Open Space).

Thank you for the invitation to submit comments and I would like to voice my opposition to 851-22-000003-PLNG, specifically as it relates to the replat of Tract A (currently designated as Open Space), to buildable tax lots.

I have reviewed the two documents submitted to the Commission by Jennifer Bierce and have done some of my own research. I share her concerns about the negative impacts this change would mean for the people and wildlife in our community.

I want to emphasize that, given the number of years that have passed since the original designation, this proposed change seems especially egregious and unfair as well as financially damaging to Ms. Bierce as well as the owner of the adjacent lot to the northeast (Lot 3400 in Sahhali Shores at Neskowin, Unit Two), both of whom purchased their properties since 2020 with the understanding that Tract A would be Open Space as it was originally designated by the same developer many years ago.

In searching for information about how views can affect our property values, I found Attachment 1, a judgement entered in a case in which Sahhali South LLC sued Tillamook County to have property tax assessments reduced for multiple lots in the neighborhood. According to the evidence provided in that case, cited on pages 5 and 5 in the court order, both the county's appraiser and Sahhali South's appraiser reported that they ranked each property's view into one of three categories based on the view. Sahhali South's developer suggested reductions in property valuations of between 10-15% for lots with "average" or "inferior" views compared to those determined to have "superior" views and Tillamook County's appraiser returned values that were 20-35% less for properties with "fair" to "good" views compared to those with "superior" views.

If Tract A is allowed to be replotted and built upon as proposed, it is obvious that the views from the adjacent lots (Lots 3400 and 3500 in Sahhali South at Neskowin) as well as their corresponding property values would be substantially and negatively degraded (10-35% less in value). Interestingly, Sycan B Corp was the original owner of Lots 3400 and 3500 and Sycan B Corp is also the listed manager of Sahhali South LLC. It is reasonable to presume that the unobstructed view to the south from those lots would have brought a premium in price when Sycan B Corp sold those lots to their first individual owners and now the same entity proposes to redesignate the land 17 years later so it can benefit financially at the expense of the subsequent owners of those same lots.

Additionally, since Tract A has been designated as Open Space/Common Ground, it appears that no (\$0) property taxes have been paid on this property since it was originally designated as a subdivided lot in 2007. To allow the developer to avoid property tax payments on this Open Space/Common Ground for the past 17 years and then allow it to be turned into a lot for development and profit would also be unfair to all property taxpayers in the county.

I appreciate your consideration and thoughtfulness in this decision, and hope that you choose not to approve the replat of Tract A.

Thank you, Christine Gault, Manager Gault Properties LLC

IN THE OREGON TAX COURT MAGISTRATE DIVISION Property Tax

SAHHALI SOUTH, LLC,)
Plaintiff,)) TC-MD 090541C
v.)
TILLAMOOK COUNTY ASSESSOR,)
Defendant.)) DECISION

Plaintiff seeks reductions in the values, for the 2008-09 tax year, of 36 townhouse lots in a newly platted subdivision on the Oregon coast. Plaintiff appealed Defendant's values to the county board of property tax appeals (BOPTA), and BOPTA sustained Defendant's values. Plaintiff timely appealed to this court seeking considerable reductions in the real market value (RMV), which, if granted, will reduce the maximum assessed value (MAV) and assessed value (AV) of the lots because the lots are newly created and were first placed on the rolls for the 2008-09 tax year. Defendant requests that the court sustain the values currently on the rolls.

Trial in the matter was held by telephone. Plaintiff was represented by Greg Hoard (Hoard), Vice President of Finance and the managing member of Sahhali South. Testifying for Plaintiff were Brian L. Kelley (Kelley), MAI, from PGP Valuation, Inc.; designated appraiser and Oregon certified state appraiser, Tim Henton (Henton), President, Butterfield Homes, Inc.; and Dawn Barker (Barker), Realtor/Broker, CRS (Certified Residential Specialist), from Windermere Real Estate. Defendant was represented by Denise Vandecoevering

¹ Plaintiff appealed 44 accounts total, eight of which were stipulated to.

² Defendant's representative, Vandecoevering, states in her appraisal that the change property ratio (CPR) applied to RMV to arrive at an AV was 0.481 for the year at issue. (Def's Ex A at 7.) That ratio is applied to the RMV to arrive at MAV and AV, the latter of which is generally used in computing and levying property taxes. As such, every dollar reduction in RMV will reduce AV by roughly 52 cents.

(Vandecoevering), Property Appraiser III and Sales Data Analyst, Tillamook County Assessor's office.

I. STATEMENT OF FACTS

The lots under appeal are located in a subdivision known as Sahhali South. Plaintiff, a wholly owned subsidiary of Sycan B Corporation, was responsible for the development of the subdivision (*e.g.*, platting, infrastructure, etc.). Plaintiff subdivided several larger parcels into 56 individual buildable lots, and added the infrastructure (paved roads with curbs and gutters, storm drains, underground utilities, and a special community sewage system). (Def's Ex 7 at 1.) The subdivision includes 10 "detached" single family residential lots on the east side of the development close to Highway 101, and 46-plus "attached" duplex style townhome lots on the other side of the development separated by 13 or more acres of protected open space, including a large wetland area. (*See* Ptf's Ex 5 at 21, 25.) The property is located on the west side of Highway 101 in the city of Neskowin, which is on the northern Oregon coast, approximately eight miles south of Pacific City and 13 miles north of Lincoln City. (Ptf's Ex 5 at 19.) The subdivision plat was recorded on February 16, 2007. (Def's Ex A at 1.)

The 36 lots at issue in this appeal are the vacant (i.e., undeveloped) "attached" duplex style townhouse lots. All of the lots have ocean views, although some are better than others. The lots range in size from approximately 4,000 square feet to 7,200 square feet. (Ptf's Ex 5 at 1.)

Plaintiff entered into an exclusive arrangement with Butterfield Homes (Butterfield) pursuant to which Butterfield obtained the right to purchase the lots over time at set prices agreed upon in 2006, and to construct duplex style townhomes for resale to interested parties as land/townhome packages. Each of the duplex townhomes is to be built on two lots, with one unit

on each lot. Under the parties' agreement, Plaintiff receives an additional commission from Butterfield upon the sale of the developed lots equal to two percent of the package sale price (lot and townhome). (Ptf's Ex 6 at 6.) As of the date of trial in late 2009, 12 townhomes had sold. (Def's Ex A at 1.) The prices of the completed townhomes (land and home) ranged from a low of \$559,000 to a high of \$927,773. (Ptf's Ex 7 at 2.) Plaintiff sold the unimproved lots to Butterfield for prices ranging from a low of \$147,500 to a high of \$176,800 between February 2007 and September 2008. (Ptf's Ex 7 at 1.) The bare lot sales are the same lots that later sold as completed townhomes. None of those properties are under appeal.

Owing to financial considerations, Butterfield delayed construction of the townhomes until two adjoining lots and townhomes were purchased. Thus, the first buyer of a lot would purchase the lot and select one of several townhome floorplan models, and Butterfield would then actively market the adjoining lot, holding off on construction until a second buyer (of the adjoining lot) was found. That arrangement often resulted in considerable delays between the time the buyer of the first lot contracted to purchase until the two unit (duplex) townhome was constructed and sold.

The appeal involves lots one through six, nine through 25, 30 through 33, 38 through 41, and 44 through 48 (for a total of 36 lots). (*See* Def's Ex A at 4.) The RMV on the rolls, and the parties' respective RMV estimates, are as follows:

Lot Nos.	Roll Value	Plaintiff's Value	<u>Defendant's Value</u>
1–6	\$220,000	\$120,640	\$220,000
9, 10	\$220,000	\$128,960	\$220,000
11, 12	\$220,000	\$116,480	\$220,000
13	\$440,000	\$200,000	
14	\$275,000	\$112,320	\$250,000
15–23	\$275,000	\$124,800	\$250,000

Lot Nos.	Roll Value	Plaintiff's Value	<u>Defendant's Value</u>
24, 25	\$275,000	\$135,200	\$250,000
30–33, 38, 39	\$350,000	\$141,440	\$350,000
40, 41	\$275,000	\$135,200	\$250,000
44–47	\$275,000	\$122,720	\$250,000
48	\$700,000	\$280,000	
(Id. Dtf'a Commit	+ 2)		

(Id.; Ptf's Compl at 2.)

Plaintiff's value estimates set forth above are a percentage (83.2%) of the May 2006 revised sale prices agreed to by Plaintiff and the builder Butterfield as part of the exclusive purchase option agreement between those parties. (*See* Ptf's Ex 6 at 13.) Defendant's estimates are derived from Vandecouvering's residual market value approach, which involved subtracting the value of the improvements from the sale price of townhome packages (land and home) in the subject subdivision and a nearby townhome subdivision. (Def's Ex A at 7.) As previously stated, Defendant requests that the values on the rolls be sustained, although her appraised values for 17 of the lots under appeal are slightly lower than the values on the rolls, and she did not value two other lots (13 and 48).

Each party submitted an appraisal report to support its opinion of value and request to the court. Plaintiff submitted a lengthy and detailed written appraisal report utilizing the comparable sales approach. (Ptf's Ex 5.) The appraiser (Kelley) concluded that a base lot value of \$185,000 was appropriate for the 12 lots with "superior" views (lots 30-33, 38-41, 44-47), and that 12 lots with "average" views (lots 14-25) warranted a 10 percent negative adjustment (\$18,500), resulting in a value estimate of \$166,500, and that the 10 lots with "inferior" views (lots one-six, nine-12) required a 15 percent downward adjustment (\$27,750), resulting in a value estimate of \$157,250. (Ptf's Ex 5 at 53, 62.) Kelley valued the two remaining lots, 13 and 48, at \$250,000 and \$350,000 respectively. (*Id.* at 62.)

Defendant's appraiser Vandecoevering valued the lots using an approach she defines as the "land residual market approach." (Def's Ex A at 7.) Vandecoevering explains in her report that, under her approach, "* * * known components of value are accounted for, thus solving for the quantity that is left over, such as land residual[.]" (Id.) Vandecoevering determined the value of a completed townhome (land and home as a package, which is how the subject lots were marketed) based on the "Department of Revenue's 2005 cost factor book," adjusted for the "Tillamook County Local Cost Modifier." (Id.) As a final step, Vandecoevering subtracted the estimated value of the townhome plus on-site development costs from the "[s]ale price" to arrive at a residual value for the land. (Id.) Like Plaintiff's appraiser Kelley, the assessor's appraiser, Vandecoevering divided the lots into three categories based on view (fair, good, and very good), and arrived at estimated values of \$217,488 for lots with a "fair" view (lots one-12), \$268,102 for lots with a "good" view (lots 14-25, and 40-47), and \$334,998 for lots with a "very good" view (lots 26-39). (Id. at 7, 8.) Notably, Vandecoevering's appraisal omitted lots 13 and 48. (See id.) Vandecoevering supplemented her value estimates with adjusted comparable sales data for the three categories of lots, and determined values of \$239,000 ("fair" lots), \$276,000 ("good" lots), and \$352,229 ("very good"). (*Id.* at 10-12.)

II. ANALYSIS

The issue in this case is the RMV of the subject property on January 1, 2008, which was the assessment date for the 2008-09 tax year. *See generally* ORS 308.007 (defining "[a]ssessment date" as "the day of the assessment year on which property is to be assessed under ORS 308.210 or 308.250," and the "[a]ssessment year" as a calendar year),

///

///

and ORS 308.210(1) (requiring the assessor to value all taxable property in the county "each year as of January 1, at 1:00 a.m. of the assessment year"). ¹

ORS 308.205(1) defines RMV as:

"* * the amount in cash that could reasonably be expected to be paid by an informed buyer to an informed seller, each acting without compulsion in an arm's-length transaction occurring as of the assessment date for the tax year."

The value of property is ultimately a question of fact. *Chart Development Corp. v. Dept.* of Rev., 16 OTR 9, 11 (2001) (citation omitted). The party seeking affirmative relief has the burden of proof and, initially, the burden of going forward with the evidence. ORS 305.427. The burden of proof in the Tax Court is a "preponderance" of the evidence. *Id.* A "[p]reponderance of the evidence means the greater weight of evidence, the more convincing evidence." *Feves v. Dept. of Revenue*, 4 OTR 302, 312 (1971) (citation omitted). This court has previously noted that value is a range rather than an absolute. *Price v. Dept. of Rev.*, 7 OTR 18, 25 (1977). Moreover, the legislature has given the court jurisdiction "to determine the real market value or correct valuation on the basis of the evidence before [it], without regard to the values pleaded by the parties." ORS 305.412.

The court generally looks for "arm's length sale transactions of property similar in size, quality, age and location" to the subject property in order to reach a correct RMV. *Richardson v. Clackamas County Assessor*, TC-MD No 020869D, WL 21263620 at *3 (Mar 26, 2003).

The parties present vastly different opinions on the value of the various lots under appeal. Such differences are not uncommon in tax court valuation appeals, and perhaps are to be expected. The parties agree that there was a general decline in the market in 2007, however, they agree on little else.

¹ All references to the Oregon Revised Statutes (ORS) are to 2007.

Plaintiff submitted two exhibits, backed by sworn testimony, specifically addressing the value of the subject property. Plaintiff submitted the appraisal by Kelley that was performed in November 2006, when the parties agree that the real estate market for coastal property was strong. (See Ptf's Ex 5 at 67.) As indicated above, Kelley concluded that a "base lot" with a superior view was estimated to be worth \$185,000 at that time. (Id. at 62.) That estimate assumed an absorption rate of two lots per month (24 per year), based on historical data from several years prior to the appraisal date, which showed a rise in housing prices and sales volume, and a decrease in marketing time (i.e., days on the market before sale). (Id. at 44-45.) As it turned out, there were only 12 sales in the first 14 months, and no sales thereafter. (Def's Ex A at 1.) Kelley testified that there was a 50 percent drop in residential land sales on the central Oregon Coast from 2006 to 2007 (the assessment date in this case is January 1, 2008).

Vandecoevering agreed that there was a 50 percent decline in bare land sales county-wide in 2007.

Kelley testified that land sale prices fell because potential home buyers wanted to pay less for homes, which resulted in builders demanding lower bare land sale prices so that they could keep the final home sale prices down. Kelley explained that builders had a difficult time getting reductions in the costs of materials and labor, which left land as the only place where the builder could reduce overall costs on a finished product (the home on the land).

Plaintiff's other specific value evidence is the agreement between Plaintiff and Butterfield for the sale price of the subject lots. (Ptf's Ex 6.) The parties initially agreed in February 2005, to a base lot price of between \$130,000 (lots one-six) and \$155,000 (lots 26-39), with prices for the other 24 lots under appeal falling between those two numbers. (*Id.* at 6.) Under that agreement, Plaintiff was to receive an additional two percent of the final improved

sale price of the lot with a home by Butterfield to a third party. (*Id.*) By way of example, the court calculates the commissions on the 12 reported sales to have ranged from \$11,180 to \$18,555.46. (Ptf's Ex 7 at 2, utilizing sales prices multiplied by two percent.) The parties subsequently agreed to reduced bare lot sale prices on May 30, 2006, although the reductions were nominal. (Ptf's Ex 6 at 13.)

Defendant disagrees with Plaintiff's assertion that the parties' agreed-upon purchase price for the bare lots represent arm's-length transactions because Plaintiff and the developer Butterfield had a close relationship and limited their market by presenting the land to prospective buyers as a package (requiring the purchase of a lot and the townhome from Butterfield), rather than Plaintiff marketing the lots directly to the public. That arrangement often resulted in considerable delays between the time the buyer of the first lot contracted to purchase until the two unit (duplex) townhome was constructed and sold. That, in turn, caused Butterfield to grant concessions (*e.g.*, reduce the price of the adjoining lot) in order to complete a townhome project and get paid. While there may be some validity to that criticism, it fails to explain why Plaintiff would enter into an agreement that would generate less revenue than if it had made other arrangements for the sale of the lots. There is no evidence that Plaintiff or its individual members had any special relationship with Butterfield or its employees.

Henton, the President of Butterfield, who has 15 years of experience in the coastal building business, the last 10 of which focused on the area where the subject property is located, submitted a three-page written narrative to augment his sworn testimony. (Ptf's Ex 8 at 4-6.) A main point of Henton's testimony was that residential sales activity on the coast began to heat up in 2004, got very active in 2005 and 2006, and then began to cool off in 2007. (*Id.*) The significance of that testimony is that the vision, planning, and initial investment in the project

was based on an expectation of preliminary plat approval by late summer 2005, with the project moving forward smoothly and at an active pace from that point onward. (*Id.* at 4.) The parties expected that the infrastructure would be completed and they would receive final plat approval by the spring of 2006. (*Id.*)

Preliminary approval was received in September 2005, and Butterfield began accepting refundable deposits. (Id.) At that point interest was strong and, at one point, 23 of the 46 lots had been reserved. (Id.) The project then hit a "snag" when the Oregon Department of Transportation (ODOT) reversed an earlier decision and decided that it would not allow Plaintiff to create a protected left turn lane into the complex from Highway 101. (Id.) According to Henton's written narrative, "[t]his course reversal by ODOT resulted in months of delay and hundreds of thousands of dollars in additional expense to [Plaintiff]." (Id.) From "a sales standpoint," the difficulty created by the delay was the uncertainty of knowing when the issue would be resolved, thus leaving Butterfield unable to honestly predict when prospective buyers who had already placed refundable deposits to reserve a particular lot could expect the project to move forward. (*Id.* at 4-5.) Henton explained that, as the delay continued, the reservation list began to shrink and, by the time the final plat was recorded in February 2007, "the overall housing market had begun to cool from the fever pitch it had reached in 2004, 2005." (Ptf's Ex 8 at 5.) Henton stated that, in the end, "only [six] of the 23 parties that had reserved units followed through with the purchase." (Id.)

Henton testified that he took a considerable amount of time to find buyers and obtain approval to build, and that it was between 18 and 20 months before Butterfield received any revenue or profit. Henton also testified that he spent approximately \$200,000 marketing the project.

Hoard, Plaintiff's Vice President of Finance and managing member, submitted additional exhibits that tended to buttress Plaintiff's claim that the market for townhome lots in the area of the subject lots was severely depressed in 2007 and continued to be in 2008. (*See*, *e.g.*, Ptf's Ex 9 at 2, 8, showing that the majority of the lots in Phase I, platted in April 2006, sold quickly while only one lot in Phase II, which was platted in February 2008, had sold as of the date of trial; Ptf's Ex 10 at 1, 4, 6, showing that one lot which sold in June 2006 for \$300,000 was back on the market in March 2008 for \$295,000, subsequently reduced to a short sale price of \$189,900, then foreclosed by the lender and listed for \$170,000).

Hoard presented testimony on the poor state of the real estate market on the coast through the testimony of Barker, an experienced Oregon coastal realtor and broker with additional qualifications of certified residential specialist (CRS) and certified home market specialist (CHMS). Barker testified that she has worked in the Oregon coast region for the past 20 years and has concentrated on the Neskowin area, which is roughly two to three miles south of the subject property. Barker testified that the market was very active between 2004 and 2006, with a slight "slow down" at the end of 2006 and that the market "definitely slowed" in 2007. Barker testified that the sales of bare land dropped off and that it was cheaper to buy an existing home than to buy land and build because there were "good deals" on existing homes. Barker testified she was familiar with Sahhali Shores (the subject development), where she has listings, and that she conducted a market study of the area. Barker also marketed lots at Pelican Point, a nearby subdivision, and suggested that the owner reduced price was approximately \$100,000 "halfway through 2007."

By comparison, Defendant submitted very little evidence regarding the value of the property, and Vandecoevering's sworn testimony at trial focused primarily on a critique of

Plaintiff's evidence. Hoard presented a persuasive critique of various aspects of Defendant's case, most notably opining that Defendant selected sales that tended to support the county's higher values and that Vandecoevering was overly influenced by Plaintiff's marketing brochure which was put out in August 2008 with the hopes of generating renewed interest in the subject property. The court reviewed the advertisement (Def's Ex A at 3) and, notwithstanding the flowery language, the brochure is typical of the puffing used by salesman.

III. CONCLUSION

On balance, the court finds Plaintiff to have presented a more persuasive picture of the overall condition of the real estate market on the coast as of January 1, 2008, and the range of values for the subject property. Accordingly, the court concludes that the RMV of the subject property for tax year 2008-09 should be reduced to the values requested by Plaintiff.

Specifically, lots one through six had an RMV as of January 1, 2008, of \$121,000 (rounded), lots nine and 10 had an RMV of \$129,000, lots 11 and 12 had an RMV of \$116,500, lot 13 had an RMV of \$200,000, lot 14 had an RMV of \$112,500, lots 15 through 23 had an RMV of \$125,000, lots 24 and 25 had an RMV of \$135,000, lots 30 through 33, 38 and 39 had an RMV of \$141,500, lots 40 and 41 had an RMV of \$135,000, lots 44 through 47 had an RMV of \$123,000, and Lot 48 had an RMV of \$280,000.

IT IS THE DECISION OF THIS COURT that Plaintiff's appeal for a reduction in the RMV of the subject property as of January 1, 2008, involving 36 lots, is granted as set forth above; and

///

///

///

IT IS FURTHER DECIDED that the stipulated values of the eight remaining lots,
embodied in the court's Order filed October 15, 2009, are incorporated into this Decision.
Dated this day of December 2010.
DAN RORINSON

DAN ROBINSON MAGISTRATE

If you want to appeal this Decision, file a Complaint in the Regular Division of the Oregon Tax Court, by mailing to: 1163 State Street, Salem, OR 97301-2563; or by hand delivery to: Fourth Floor, 1241 State Street, Salem, OR.

Your Complaint must be submitted within 60 days after the date of the Decision or this Decision becomes final and cannot be changed.

This document was signed by Magistrate Dan Robinson on December 30, 2010. The Court filed and entered this document on December 30, 2010.

Melissa Jenck

From: batzlercbatz@aol.com

Sent: Tuesday, April 5, 2022 9:29 AM

To: Melissa Jenck

Subject: EXTERNAL: Replanting of Sahhali South

[NOTICE: This message originated outside of Tillamook County -- DO NOT CLICK on links or open attachments unless you are sure the content is safe.]

My name is Carolyn Batzler and I own a home on lot 13 at Sahhali Shores. I strongly object to the proposal of replant Tract A submitted by Sahhali South.

Both Sahhali Shores and Sahhali South share the same entry and same road (Sahhali Drive). The shared area is financially maintained by the Sahhali Shores homeowners association.

If this project is approved it will impact the value of my property but more importantly it will impact the beauty of Sahhali. We treasure our open spaces, ocean views, old growth trees and especially our wild life.

Please consider this when you make your decision.

Thank you.

Carolyn Batzler 44615 Sahhali Drive Neskowin, Oregon 97149

Sent from the all new AOL app for iOS

To the esteemed members of the Tillamook County Planning Commission:

My name is Jennifer Bierce, owner of tax lot 3500, Lot 52 in Sahhali Shores; located at 45015 Proposal Point Drive, a neighboring Lot to Tract-A, which is currently under review to replat.

This is an addendum to my Feb 15, 2022, comments in opposition to the **proposed 851-22-000003-PLNG.**

Based on the materials provided, the suggested replat does not meet the following Review Criteria as outlined in Section 6.040 and Section 3.520(3)(b):

Section 6.040(3): The parcel is suitable for the proposed use considering its size, shape, location, topography, existence of improvements and natural features.

Section 6.040(4): The proposed use will not alter the character of the surrounding area in a manner which substantially limits, impairs, or prevents the use of surrounding properties for the permitted uses listed in the underlying zone.

• Dispute 1: Significant impact/impairment to the macro surrounding area of Neskowin and Highway 101

- O Visual Impairment would ensue if Tract A open space plat is split into the proposed 2 building lots. The developer shows a permissible building envelope on A-1 with the east/west longitudinal building's 144' width. This length structure will dwarf all existing Sahhali South and Sahhali Shores structures' width by at least 70'. Note: tax lots 900 and 1000 on Heron View Drive are only 51' wide while the Proposal Point Drive tax lots 4400 and 4500 are just 71' wide.
- o Combined with the developer's 30" height, whatever McMansion railroad train elongated structure is built here will permanently alter the landscape views from Highway 101 and Neskowin. The above-mentioned tax lot 4500 has just a 24' height structure but its nighttime light illumination is visible from Hwy 101.
- o Since A-1 elevation is equal to that of tax lot 4500 and will be 6' higher at 30', the proposed allowable building envelope is 144' east west long, it can be assumed this structure will be always visible, day or night.
- When combined with the developer's 83% side setback downsizing, the very narrow 10' distance between A-1 and A-2 parallel building structures will create a single east/west structure noticeable from Highway 101 that will appear as just one monstrous structure, not two.
- Dispute 2: Reputational rural character impairment to the lovely town of Neskowin may occur when this permissible 144' wide A-1 structure is finished. Additionally, while the proposal may seem in accordance with Tillamook County setback requirements of a minimum of 5', when you take into account the vertical building heights of this proposal, Neskowin would have the most restrictive side yard setback requirements, exceeding comparable urban designations.
 - According to City of Tillamook residential zoning for similar size average lots or smaller average lots there is a requirement to add 0.5' setback for each foot structure

exceeding 15' high. Since the developer's ARB height is 30', this results in an additional 7.5' to be added to the minimum 5'. Thus, the total side lot setback becomes 12.5' in the city of Tillamook vs. just 5' in Neskowin. This urban Tillamook County city then enjoys a 12.5' / 5' or 250% greater side setback requirement than one proposed for the bucolic rural Neskowin hamlet. This more onerous stipulation drastically impairs the surrounding area as its side setbacks reduce the natural resource amenities view corridor by 60% [7.5' / 12.5'] over whatever view corridor exists in the City of Tillamook.

- o Additionally, should structure be built in the proposed A-1 lot, the resulting industrial warehouse length building incursion into a rural residential neighborhood may hurt the Neskowin aura of idyllic hills and untouched Oregon coastal landscapes.
- Removing the 17-year-old Tract A open space designation and converting the same into two building lots may also tarnish and stigmatize Neskowin as placing developer profits over environmental sustainability of our beautiful Oregon coast lines.
- o The developer's proposed downsized setback requests are the Trojan horse included to ensure that Tract A platted open space can be subdivided into not one but two buildable lots that will completely alter the nature of what is currently deemed to be a rural, coastal community.
- o The 17-year developer reconfirmed [15 years ago] the 30' side interior setback currently prohibits any building on Tract A despite the developer's attempt to slice it into 2 buildable lots.
- o More specifically, the proposed side setback reduction from 30' to 5' adds 25 additional buildable feet to each north/south building perimeter. The 83% setback shrinkage generates 25' more feet on either side. So, the math is 30'- 5'= 25' additional feet. 25'/5' = 500% increase in allowable footage allowed on each north and south total length.
 - o If the developer's application was in the City of Tillamook, not Neskowin, his apples-to-apples similar height allowable building envelope increases would be drastically reduced: 30'-12.5'=17.5 ' 17.5/12.5= 140%, NOT the 500% proposed in Neskowin.
 - This more restrictive urban allowable building envelope is contra public policy, inconsistent, and unreasonably biased against the stated NeskRR Section 3.320
 [1] Purpose "intended to maintain the rural character"
 - O Allowing 3.5X (500/140) larger side yard building envelope increases in rural Neskowin seems in conflict with NeskRR Section 3.320 and unreasonably damaging. Its rural natural amenities are subject to more intrusive, destructive, and injurious larger building envelopes than the City of Tillamook urban allowances, when equal building heights are included. The hamlet's rural character and natural beauty should not be harmed via a more invasive encroachment than the narrower inset allowed in urban cities.
- Also contributing to a greater building envelope is the proposed side street setback decreasing 25% from 20' to 15'. This reduction in setback increases the building envelope where relevant by 33% exceeding that which is permissible in the city of Tillamook.
- These huge building envelope increases, and much less restrictive setbacks proposed are rifles designed to hit the Tract A bullseye and restrict all surrounding area views; depriving current and future residents of the area's natural beauty and forever altering the conditions of the Neskowin coastline.

- Dispute 3: Significant impact/impairment to the Micro surrounding area with significant densification to a once rural enclave.
 - o The proposal would result in increased density on Proposal Point Drive (PPD) but especially on PPD between Heron View Road and Tyee Loop Ct. The developer's division of Tract A into two lots increases by 20% from 5 lots [tax lots: 4300, 4400, 4500 4600, and 4700] to 6 lots [tax lots 4300,4400, 4500, 4600, plus A-1 and A-2 tax lot numbers].
 - o This increased density generates four new east side PPD driveway aprons possibly interlocking or overlapping with tax lots 4400 and 4500 own 4 driveway aprons. Tax lot 4600 two driveway aprons will add to potential interlocking A-2 two driveway aprons.
 - O Not only does it generate increased density, but also much additional traffic that intrudes on Sahhali Shores tax lots located on PPD and Tyee Ct. It should be noted the developer's application omits any verbal attribution for Sahhali North, a 25 acre 5 lot subdivision directly contiguous due North on Heron View Drive. Tillamook County Planning Board 10/17/2007 conditional approval Exhibit A III [2] mandates "Vehicular access to the lots take place only from Heron View Drive." So these 5 lots must have mandatory driveway aprons on the north side of Heron View Drive. This stipulation obviously will impact the volume and safety in the area, despite the developer's nonrecognition of this conditional approval.
 - o The developer's density at what is the only major north/south and east/west intersection of Proposal Point Drive and Heron View Rd. could be reduced via Section 160 "Dead End Street". This states for roads under 2000' long, there's a potential available permitting up to 18 dwellings. This would alleviate traffic on Proposal Point Drive and decrease density as well.
 - For example, why not use the long 89' road facing lot next to proposed 13-A on Thalassa Dr. Besides being a very suitable building lot, the aerial view illuminates the interlocking apron potential, urban concrete jungle potential, and density increase. To illustrate is a Sahhali Shores lot with similar elevation and well designed house: https://www.zillow.com/homedetails/5700-Sahhali-Poin-LOT-80-Neskowin-OR-97149/2067401912_zpid/
 - o Density could also be eliminated by keeping the proposed combined lot 48 as 48-A and 48-B separate. According to <u>realtor.com</u> both of these lots were Listed on Feb 4, 2021 and both went to sign contracts Pending March 24, 2021. It would be helpful to see these two signed contracts and ascertain why they are now proposed as combined.
- Dispute 4: Tax Lots 3400 and my own 3500 will be substantially impaired as the developer's proposed 260' property line, and creation of irregular, sliver lots will shut down both tax lots direct south facing views. Combined with the much narrower side lot setback will obstruct if not obliterate any view once the two parallel 30' structures are built.
 - o Each building will now be 25' closer to each tax lot, including mine. Once a developer selects his desired setback formula for detached homes, it should become permanent after 17 years. The Tillamook County Planning Board should maintain its 2005 and 2007 consistent and coherent, disciplined reaffirmation of the 30' side setback requirement.
 - o The developer's setback downsized request is squarely aimed at converting irregular Tract A into two buildable lots while his lot #14-19 front street widening negates any required downsized setbacks as does revised lot 46. 48 and 13-a and 13-b.
 - o According to "Exhibit 2.1: Developers Summary Statement for Sahhali South Master Development Plan" on page 157 of the second paragraph just before the Conclusion of Criteria 4, the developer asserts "The proposed development is designed to replicate in

feel and look this development. The proposed layout of the development will not impact the scenic views of the adjacent subdivisions." Respectfully, this is an utter lie, and the Planning Commission must disaggregate this assertion.

- As a resident of the "adjacent subdivision", and most importantly, the neighboring Tax lot 3500, the eradication of Tract A open space plat and its proposed split into 2 lots will substantially marginalize/destroy somewhere between 90-150 degrees south and east of the existing unblocked 360-degree panoramic vistas. This severe view destruction devalues my newly built home whose certificate of occupancy was just issued in November 2021.
- Under the current setback rules, Tract A 's single plat affords unlimited and unhindered scenic views. The new downsizing setbacks are singularly designed to ensure Tract A can be converted into buildable lot status with no recognition or acknowledgement of scenic view corridor destruction that will inflict on neighboring lots in adjacent subdivisions.
- The developer's proposed downsized setback adjustments will only further impair the limited scenic view incursion proposed above by the developer's unsubstantiated need to split Tract A into two building lots now after a 17-year status quo permanency as a single plat.
- Why not add 1 lot or 2 or more on the new cul-de-sac Thalassa Drive proposed road whose unique Dead End Designation is mentioned by the developer himself? As he states, its unusual parameters permit additional homes without any density implications. This splitting Tract A into not 1 but 2 lots to magnify my scenic view limitations seems very inequitable to this single woman.
- o Instead of viewing south and east with a spacious 30" property line setback horizon, this additional 25' north and south side building envelope will push the northern A-1 building structure 25' closer to my property to just 5' from my southern property line, not 30'. As any eye doctor will state, the closer you are to an object, the greater visual bandwidth it absorbs thereby severely limiting and impacting your lateral side vision. Coupling this to my scenic views and it is easily evident the panoramic vistas will be considerably impacted and diminished.
- o If in fact the entire A-1 extra-long east west building envelope is utilized, this will essentially derail all east or south vistas severely impairing my scenic views.
- o With the developer's proposed illogical desire to split Tract A into 2 irregular long lots, he will further create an unnecessary 2nd building again significantly limiting my scenic view. This intrusion and visual restriction is not permissible under current existing setback rules and Tillamook County Planning Board conditional approval.
- o Shoehorning in this proposed capricious lot # 2 into the single Tract A plat guarantees my southern vistas will be visually obstructed. Who would have guessed the developer could arbitrarily present an out-of-the blue surprise inclusion of a 2nd building lot after a 15 and 17 year requested and approved history as just a single Tract A plat?
- O The prospect of having to now stare directly into another 30' high structure just 55' from my property line will further impair my scenic view and impact my property value. This stealth view diminution from what is currently unlimited as far as the eye can see across to the miles-away idyllic Neskowin hills will forever be annihilated and limited to just 55' of nothing but monstrous structures.
- Dispute 5: For the immediate surrounding area, reversing the developer's 17-yearold twice affirmed detached home 30' side setback to the proposed minimum 5' does not

reflect consistency but rather developer inconsistency, contrary to the developer's proposed assertion.

- 2005 Exhibit A conditional Planning Board approval was conditioned that "All areas designated as open space, common area or wetlands shall not be further subdivided for development purposes." The December 2007 Planning Board again re-stipulated the 2005 condition in its own 2007 Exhibit A Conditional approval word for word.
- o On a micro level, these inconsistent proposed downsizing setbacks could be interpreted as designed solely to permit the developer to build on Tract A's two divided lots which are not currently buildable under the current 17- year developer selected setback settings.
- O The developer in his original CCRs claims the right to choose which lots to build or annex; he expressly does NOT grant himself the right to request setback stipulations after 17 years. Granting the developer's proposed detached home new minimum setbacks would greatly impair the current 18 Sahhali South homeowners who bought believing the twice affirmed setback restrictions were permanent.
- o The current Sahhali South and Sahhali Shores lot/homeowners would also be impaired. What was considered a permanent view vista in place for 17 years is now proposed to change and impaired 83% narrower viewing bandwidth. These greatly reduced setbacks narrow or extinguish surrounding lot/homeowner views.
- o These added restricted and diminished vistas devalue their property investment as what was fixed and in place is now proposed to be arbitrarily changed.
- O As proposed, the new setbacks are asymmetrical and inconsistent with Sahhali South own setback parameters which the developer had previously affirmed twice 15 and 17 years ago. The increased building envelope permitted under these proposed new setbacks will not "replicate the feel and look" of Sahhali South or Sahhali Shores with its greatly reduced side and interior yard setbacks. These downsized setbacks will create an inconsistent and very uneven dichotomy while greatly destroying much of the scenic views neighboring lot owners in adjacent subdivisions currently enjoy and can experience. There will be a tale of two cities in these neighboring communities.
- Dispute 6: According to Tillamook County Article 4.11: Exception to Yard Setback Requirements The proposed request does not align to any of the small lot exceptions outlined and therefore must be denied by the Planning Commission.
 - **4.11.5a:** SMALL LOT EXCEPTIONS: In the RR, CSFR, RC, CC, CR-1, CR-2, CR-3, RMH and RMD zones and including those communities with adopted community growth boundaries, a front or rear yard, but not both, may be ten feet, provided the following apply to the subject parcel:
 - (a) The parcel is 7500 square feet or less in size.
 - (b) At least one side yard is ten feet or more wide.
 - (c) Required off-street parking is provided.
 - (d) The right-of-way width at the front of the lot is at least thirty feet. In the case of right-of-ways under 30 feet in width, a ten-foot yard may be approved if it is approved by the Public Works Department.
 - (e) The lot is not a corner lot. If the lot is a corner lot and meets the above criteria, the front yard may be 15 feet.
 - o Developer proposed Lot A-1 is 9285 square feet and is 124% larger than the [a] required maximum 7500 square feet exception and therefore is NOT eligible for either a front or rear yard exception of 10' for detached homes contrary to Table 1 page 17 submission.

- Not only is Lot A-1 ineligible for detached homes, but also NOT eligible for attached homes. Lot size again 9285 square feet exceeds the necessary exception limit of 7500 square feet.
- O Developer proposed Lot A-1 is presented as having each side yard being just 5'. Since the [b] exception requires at least 1 side yard setback being 10', the developer 's proposed Lot A-1 fails this threshold test. Lot A-1 is therefore ineligible for the Section 4.11 exception. Again, NOT eligible for detached homes contrary to Table 1 page 17 submission.
- o Proposed Lots A-1/A-2 is non-conforming and therefore not eligible for any exceptions offered in Section 4.11.5a and 4.11.5b; thus the Planning Board should deny their creation.
- **Dispute 7: Tract A is currently an environmentally sensitive habitat for elk and deer.** It is also centrally located within Sahhali South, and ADA compliant for all humans young and old to enjoy the natural views. It is easily accessible and very easy to use. Please see original submission, as current proposal is in direct violation of Oregon House Bill 2834 that seeks to protect wildlife corridors.
- Dispute 8: Neskowin is renowned for its very severe Pacific storms generating a lot of wintry rain and off the charts wind speeds; the proposal will increase opportunities for the creation of wind tunnels that can damage property and harm residents.
 - o Per the developer's Geotech report submitted with his large 5 lot Sahhali North April 2013 annexation, is a statement reporting wind gusts in the area are normally up to 110 mph. This 100+ mph wind was echoed in the developer's landscape section. Narrowing the setbacks 83% to just 5' will result in both A-1 and A-2 having just a combined 10' between their two structures. Since the same wind volume must travel through a smaller opening, the wind's velocity will increase potential debris impairment to leeward homes, traffic, and pedestrians.
 - o The developer's proposed narrower side setback to 10' [2 x 5' each lot] between adjoining lots A-1 and A-2 will increase the wind force on Heron View Road humans and property as the current 60' setback [2 x 30' each lot] allows for the wind to dissipate instead of accelerating through the much smaller opening between the 2 building lots.
 - o This increased danger to human life and property on these highest elevation Sahhali South lots should not be permitted as safety first concerns should override this.

Section 6.040(6): The proposed is timely, considering the adequacy of public facilities and services existing or planned for the area affected by the use.

- Dispute 1: If replating was "timely" the proposed requests would have been included in one of the two previous requests for rezoning by the developer.
 - o Although the developer could have used Tillamook County's 12/18/2002 Section 35 allowable 5' side setback in both its 2005 and 2007 reaffirmation, he did not.
 - o The developer is the only beneficiary to these downsized setbacks that afford him a 500% increase on 2 sides on the building envelope home sides for adjoining lots to the detriment and impairment of surrounding lot/homeowners. Without these proposed downsized setback new figures, Tract A would no longer to be suitable to the developer to be sliced and diced into two building lots.

- Dispute 2: Sahhali South has experienced a boom in recent sales activity, it can only be assumed that those sales were made with the understanding that the 17-year-old community open space (Tract A) would not be significantly altered.
 - O No need to alter the current setback factors as the current 18 Sahhali South homeowners are fully adjusted to the current requirements. Sahhali South is experiencing brisk sales activity under the current existing setbacks so again there is no reason to adjust the setbacks. Within the past year as of today's date [March 24, 2022] according to www.realtor.com 8 Sahhali South lots are Pending: Lot # 6, 24, 25, 30, 31, 40, 48-A, and 48-B.
 - o I assume the 8 Sahhali South lots pending will close scheduled post this application. When added to the existing homeowners, the combined total of current and pending future individual lot owners = 26, just 3 shy of the majority of current 56 lots. As soon as this happens, the developer loses his control over the Board of Directors of the Sahhali South Homeowners Association.
 - o The proposed setback changes seem laser-focused to convert Tract A open space into 2 buildable lots to benefit the developer now. It seems incoherent he proposes this now when the market seems to have recognized the current open space as attractive. Given his brisk sales. These current/future buyers like his consistent 17-year-old prior setback attestations that bring a sense of permanence to them.

Section 3.520 [3] [a] [3]: Proposed Open Space

The developer is mistaken and incorrect to assert on page 20 of his PD Replat Amendment Application:

"The 2021 Amendment Application will not change the use of dedicated OPEN SPACE as undeveloped."

Relocating Tract A creates 2 NEW Ocean View lots for development purposes. This action contravenes both the Tillamook County Planning Boards' 2005 and 2007 Exhibit A Conditional Approval stipulation:

"All areas designated as open space, common area, or wetlands shall not be further subdivided for development purposes."

Since "area" is not defined in Article 11 Definitions, The Article 11.020 [2] advises the following to ensure proper definitions can be agreed upon:

(2) When a Term Is Not Defined. Terms not defined in the Ordinance shall have their ordinary accepted meanings within the context in which they are used. Webster's Third New International Dictionary of the English Language, Unabridged, shall be considered a standard reference.

Using this recommended Webster's Dictionary the ordinary accepted meaning for "area' is the following:

"Area" definitions: "The surface included within a set of lines", "A level piece of ground"

Tract A definitively meets both ordinary accepted definitions: it's a surface included within a set of lines and it is a level piece of ground. The developer's claimed equivalent substitution for lot 13 vicinity misrepresents that area's inherent steeply sloping ground that is NOT at all similar to Tract A and very unsuitable for humans of all ages to use negating the developer contrary observation. Please see Exhibit C on page 11 for detailed photos.

The new Tract A area proposed superimposed development lots [A-1, A-2] are marked and surveyed as separate lots shown on the developer's page 9 application. Oddly, the developer wants to combine the larger 48a and 48b lots into just one. However, with these new Tract A subdivided open space 2 lots he miraculously increases his net lots by 1 for a new total of 59 lots per page 14. These facts underscore the developer is subdividing the current level-grounded open space, for new development purposes solely to increase his net lot count by one.

Tract A open space has been specifically located at the northeastern corner of the Heron View Drive and Proposal Point Drive for 17 years. The developer notes its gently sloping terrain and then infers it is fungible with the very steeply sloped lots 13a and 13b, but these 2 lots are completely different, separate, far removed, and south of Heron View Drive. This false equivalency neglects the all but inaccessible and impossible to use 13 lots versus Tract A very easy to use and ease of access [see exhibits A and C for clearly illuminating the vast differences]. To remain consistent with the 2005 and 2007 Planning Boards, the Tract A acreage area is specifically dedicated to open space; it "shall not be further subdivided for development purposes" and therefore immutable.

So again, subdividing Tract A into 2 development lots most definitely will change the use of dedicated open space contrary to the page 20 developer statement.

Section 3.520(3)(b) (2): Resulting development will not be inconsistent with the comprehensive plan provisions or zoning objectives of the area.

- Dispute 1: Tillamook County defines "open space" as equivalent to "undeveloped land or park facilities belonging in common to the members of a property owners association. The open space, development density, and the layout of the streets in Cluster developments are designed to maintain the natural or scenic amenities of a site, and the minimum lot sizes in Cluster subdivisions are reduced to allow a proportionate increase in the density of the developed portions of the tract." The above Tillamook County Section 020 definition under Cluster subdivision equates open space as being synonymous with public park facilities. As such implicit in "open space" is the assumed human interactive component requiring ease of access and ease of use.
 - o Inherent in the developer's proposed "swapping" open space from the Tract A (0.34 acreage) for his lot 13 (0.38 acreage) is his incorrect assumption of fundamental equivalence for the 2 parcels. He glosses over his "gently sloping terrain" description of Tract A and immediately equates it to his "steeply sloped" lot 13 statement as being equal substitutes.
 - The problem with this developer assumption is it completely removes the human interaction component requiring ease of access and ease of use for children, handicapped, disabled, and senior citizens to enjoy. It also seems to contradict his earlier 2005 and 2007 submissions to those then serving Tillamook County Board representatives who I'm sure

- applauded his thoughtful foresight to lay out Tract A as the most accessible and easy to use "open space" central to ALL Sahhali South lot/homeowners.
- o Instead of certifying to his earlier thoughtful open space inclusion near the major Sahhali South intersection, He has now shunted the proposed " =open space" designated area to a peripheral cul-de-sac requiring current Proposal Point Drive homeowners to travel up to 3x the original distance to visit. Moreover, his suggested substitute on lot 13 all but ensures that unlike the aforementioned public park similarity, there is no ease of access or use for many humans.
- o **Please see Exhibit C** Bramble filled cliffside that the developer is proposing becomes the new open space.

Based on the above facts, it would be inconsistent for the Tillamook County Planning Commission to not maintain original open space Tract A designation and placement. I appreciate your consideration and thoughtfulness in this decision, and hope that you choose not to approve the replat of Tract A.

Thank you, Jennifer Bierce (Owner Tax Lot 3500 – 45015 Proposal Point Drive, Neskowin, OR 97149) Exhibit A: Photos taken from South Balcony fo Bierce Resident (Lot 52, Tax Lot 3500): Tract A is a very gently sloping and easily accessible for all residents, including children, handicapped, disabled or senior citizens. Proposed Open Space is steeply sloping and inaccessible to many current or future residents, as well as discriminatory to handicapped, disabled or senior citizen. Proposed open space would require 36 Proposal Point Lot owners to travel at least twice as far to use a Thalassa Street culdesac.

Per the photos, the addition of two homes in this location would eliminate my south facing views impacting my overall property value, and causing safety concerns of 4 driveways emptying out into the same thoroughfare:

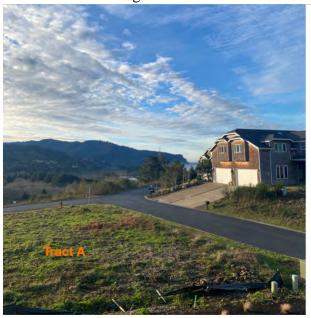






Exhibit B:

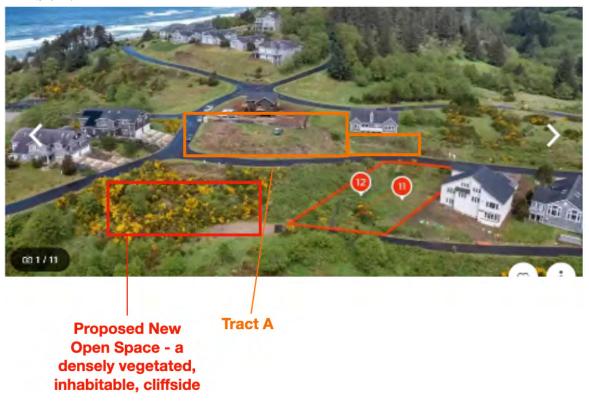


Exhibit C – Bramble filled cliffside that the developer is proposing becomes the new open space.



To the esteemed members of the Tillamook County Planning Commission:

My name is Jennifer Bierce, owner of tax lot 3500, Lot 52 in Sahhali Shores; located at 45015 Proposal Point Drive, a neighboring Lot to Tract-A, which is currently under review to replat.

I would like to voice my opposition to **851-22-000003-PLNG**, specifically as it relates to the replat of Tract-A (currently designated as Open Space), to not one, but two, buildable tax lots.

Based on the materials provided, the suggested replat does not meet the following Review Criteria as outlined in Section 6.040 and Section 3.520(3)(b).

Section 6.040(3): The parcel is suitable for the proposed use considering its size, shape, location, topography, existence of improvements and natural features.

• Dispute:

- o The proposal requests current setback guidelines be revised from 30' at side yard to the Tillamook County minimum at just 5' an 83% reduction. The interior yard setback requests a reduction from 15' minimum, to 5' representing a 67% reduction from current standards. Lastly, the side street setback is requested to be reduced from 20' to 15' a 33% reduction from current standards. Given the proposal requires a remapping of setback lines, it confirms that it is not suitable for the proposed use without extreme augmentation of current county rules and ordinances.
- o In the proposal shared, the developer claims that lots 14-19 are currently too narrow to build on (approx. 50' width); however, the replotting of Tract A would make the proposed lot A1 and A2 (approx. 32'-38' width) too narrow by the proposer's own guardrails. This represents an inconsistency in the logic and guidelines within the proposal with the developer applying a different set of rules to each lot based on his desired outcomes.

Section 6.040(4): The proposed use will not alter the character of the surrounding area in a manner which substantially limits, impairs, or prevents the use of surrounding properties for the permitted uses listed in the underlying zone.

• Dispute:

The proposal requests current setback guidelines be revised from 30' side yard to the Tillamook County minimum at just 5 ft. – an 83% reduction. The interior yard setback requests a reduction from 15' minimum, to 5' – representing a 67% reduction from current standards. Lastly, the side street setback is requested to be reduced from 20' to 15' – a 33% reduction from current standards. My home, directly neighboring Tract A, which recently completed building in November of 2021, was subject to 15' setbacks at the side yard in line with the current Sahhali South standards to which the developer would like to reduce by 67%. It is incongruous that two neighboring lots could have such vastly different rules as it relates to setbacks and buildable space on our properties.

- Tract A is currently home to amazing wildlife including, but not limited to, deer and elk grazing on this Open Space land almost daily. The proposed removal of this Open Space in favor of two single family home lots is unlawful and in direct contradiction to the recently passed Oregon House Bill 2834, which states:
 - Relating to wildlife corridors. Whereas the state of Oregon is home to a rich array of wildlife and landscapes; and Whereas biodiversity and habitat connectivity play a vital role in Oregon's economy and in ensuring a sustainable future for current and future generations of Oregonians; and Whereas habitat loss and fragmentation are major contributors to declines in populations of native fish, marine life and terrestrial wildlife; and Whereas wildlife corridors serve to connect wildlife habitat areas and allow for the movement, migration and dispersal of fish, wildlife and plant species; and Whereas, in addition to other benefits, wildlife corridors provide ecosystem services such as pollination, air and water purification, carbon sequestration and disturbance prevention; and Whereas wildlife corridors increase public safety and are highly effective at reducing vehicle wildlife collisions and the costs associated with those collisions; and Whereas formally designating and protecting wildlife corridors is a crucial strategy for bolstering Oregon's ecosystem resiliency and for ensuring the long-term viability of wildlife population and communities; now, therefore, Be It Enacted by the People of the State of Oregon: **SECTION 1. (1)** The State Department of Fish and Wildlife shall...preserve long-term habitat connectivity for wildlife as defined in ORS 496.004. The plan shall provide guidance for all state agencies to develop benchmarks for the designation and protection of wildlife corridors in Oregon.
 - In order to protect our wildlife, their migratory patterns and fragile ecosystem on the Oregon coast, we cannot replace the Tract A Open space with two buildable lots. The replacement Open Space that the developer is proposing is located on an uninhabitable, cliff side that is currently too treacherous for wild life or humans to safely navigate. (Please see Exhibit B)
 - By removing this open space and converting it to two buildable lots, we will be taking away the precious habitat for our wildlife and destroying the natural beauty of the Oregon Coast. We will also increase the chances of wildlife/vehicle collisions with the increased urbanization of the community. According the Pew Research Center: Oregon's "mule deer population has been below the Oregon Department of Fish and Wildlife (ODFW) management goals for at least 30 years and declined by 95,000 animals from 2015 to 2017, in part because of collisions with vehicles". The addition of these buildable lots will further denigrate the wildlife population and result in heightened safety risks for animals and drivers alike.
- o The proposed NEW Open Space is an uninhabitable cliff side that is not only not suitable to build on, but also not suitable to the animals that currently thrive in

- Tract A. Please see Exhibit A and B for commentary regarding accessibility and use.
- The addition of buildable lots A-1 and A-2 would be detrimental to the neighborhood safety as these lots are located at a major North/South and East/West Intersection between the Sahhali Shores and Sahhali South communities. The addition of lots A-1 and A-2 would result in diminished (impaired) visibility for drivers and increase the danger of automotive accidents at a busy intersection between two communities.
- o These 2 new lots will also add 4 concrete/asphalt driveway aprons to the east side of Proposal Point Dr. putting more cars into the nearby intersection and tangentially across from the 4 westside Proposal Point Dr. driveway aprons creating more traffic interplay.
- O This proposal represents the increased urbanization of what had originally been deemed a rural community; by squeezing in two additional buildable lots to what was once Open Space, we are increasing the harmful impact on the community infrastructure, not only impacting the safety of those living within the community but also creating a detrimental impact on the coastal wildlife that currently grazes and roams on the Tract A Open Space.
- o Tract A location is currently at the epicenter of the Sahhali South development and the surrounding area. Its 260' east west longitudinal lot line is significantly larger than any lots currently on the market. This extensive lot line will permit a monstrously long wall like home fitting within 144' east-west building envelope line. This huge potential structure would far eclipse any existing building now measured on the same east/west axis and "substantially limit, impair [and] prevent the use of surrounding properties" to enjoy our current community and the wildlife we love that live within it. Please note:
 - The two closest Heron View tax lots combined [#900 and #1000] on 0.20 acreage are only 62' combined east/west. More acreage but smaller east/west line interference and impairment silhouette.
 - The closet Proposal Point Dr. with tax lot homes #4400 and #4500 measure just 71' east/west line beyond the 32' concrete driveway apron.
 - These tax lots are all 50% smaller than the proposal.
- The conversion of Tract A from Open Space to two, buildable lots, would also greatly impair my current South facing Ocean views and impede on my overall property value and desirability. My south facing ocean view is currently an impressive view of the Oregon Coast's beautiful cape bluffs, however if this proposal is approved, I would lose this view, and instead see not one but two homes directly next to my own. I purchased my land with the understanding that Tract A was Open Space and therefore would never be buildable, thus protecting my pristine ocean view, the proposal "substantially limits, impairs" and prevents the use of my surrounding property thus in direct disagreement with **Section 3.520(3)(b) (7). (Please see Exhibit A)**

Section 6.040(6): The proposed is timely, considering the adequacy of public facilities and services existing or planned for the area affected by the use.

• Dispute:

- o Tract A has been deemed Open Space since the community inception in 2005 (17 years ago). The developer submitted revisions to his community plan in 2007 a reasonable amount of time from inception and the proper time to submit additional desired replats. Now, 17 years from inception and 15 years from his revised land use ordinance, the proposal is now requesting yet another replat, specifically of an Open Space that has remained as such for 15 years.
- o According to even the most liberal statute of limitations of 10 years (in accordance with the IRS Federal Statute of Limitations), the proposer is at minimum 5 years past due his time to redraw the lines of our communities.
 - Since this statute has expired, the 3 contiguous lots Lot 51, 52 and 79 all sold, with the understanding that after 15-17 years of designation as an open space, Tract A would remain an open space in perpetuity.
- o I implore the Commission to state how many similar unit developments have gone through not one, but 3 replats since their inception, and ask over what time period those occurred? Is 15 years a reasonable amount of time to request changes that will impact the community so egregiously? Given it is far beyond even the most liberal statute of limitations, I think not.
- O Furthermore, the Developer has surreptitiously failed to disclose the existence of Tract A as a designated Open Space on any of his listings at least since January 2020, likely in hopes that his proposal to replat would be approved. On the contrary, Tract A has been deemed "Open Space" annually for more than 12 years on the Tillamook County Taxation subdivision website (plot map and lot-owner matrix). If this designation can be redefined/replatted at the whim of Developers, Tillamook County Planning Board should provide a warning to all current and potential buyers that a designation of Open Space apparently means nothing, and can be changed at any time. For example:
 - WARNING: This is a notice informing you the public that Tillamook County Taxation and Assessment subdivision maps may show "open space" parcels. Do not ever assume these are permanent as the developer can apply at any future date to arbitrarily remove this designation and convert same parcel to 1 or more building lots. <u>Caveat Emptor</u> to all prospective buyers, these so called "open space" individual lots can be altered at any time beyond any known statute of limitations.

Section 3.520(3)(b) (2): Resulting development will not be inconsistent with the comprehensive plan provisions or zoning objectives of the area.

• Dispute:

The proposed development would be inconsistent with the comprehensive plan provisions or zoning objectives of the area as it seeks to reduce setbacks by 67%-83% and eliminates natural, open space that is precious to the community inhabitants and surrounding wildlife. Please see previously stated disputes above as to why this development would be inconsistent with the comprehensive plan provisions.

Section 3.520(3)(b) (5): The parcel is suitable for the proposed use, considering its size, shape, location, topography, existence of improvements, natural features.

• Dispute:

- Given the proposal also requires a remapping of setback lines, it confirms that it is not suitable for the proposed used without extreme augmentation of current county rules and ordinances.
- O Additionally, in the proposal shared, it claims that lots 14-19 are currently too narrow to build on (approx.. 50' width), however, the replotting of Tract A would make the proposed lot A1 and A2 (approx. 32'-38' width) too narrow by the proposer's own guardrails.

Section 3.520(3)(b) (7): The proposed use will note alter the character of the surrounding area in a manner which substantially limits, impairs or prevents the use of surrounding properties for the permitted uses listed in the underlying zone.

• Dispute:

o Please see dispute reasons outlined in **Section 6.040(4)** above.

Based on the above facts, it would be inconsistent for the Tillamook County Planning Commission to not maintain original open space Tract A designation and placement.

I appreciate your consideration and thoughtfulness in this decision, and hope that you choose not to approve the replat of Tract A.

Thank you, Jennifer Bierce Owner Tax Lot 3500 – 45015 Proposal Point Drive, Neskowin, OR 97149 Exhibit A: Photos taken from South Balcony fo Bierce Resident (Lot 52, Tax Lot 3500): Tract A is a very gently sloping and easily accessible for all residents, including handicapped, disabled or senior citizens. Proposed Open Space is steeply sloping and inaccessible to many current or future residents, as it is discriminatory to handicapped, disabled or senior citizen as it is very challenging to use. Proposed open space would require 36 Proposal Point Lot owners to travel at least twice as far to use a Thalassa Street culdesac.

Per the photos, the addition of two homes in this location would eliminate my south facing views impacting my overall property value, and causing safety concerns of 4 driveways emptying out into the same thoroughfare:







Exhibit B:

Proposed Open Space is steeply sloping, inaccessible and extremely difficult to many current or future residents, as it is discriminatory to handicapped, disabled or senior citizen residents. Proposed open space would require 36 Proposal Point Lot owners to travel at least twice as far to use a Thalassa Street culdesac.





900 SW Fifth Avenue Suite 2000 Portland, Oregon 97204 503.517.8119 *direct*

Patrick T. Foran ptf@wysekadish.com Admitted in OR and WA

April 6, 2022

By Regular and Certified Mail, Return Receipt Requested

Sahhali South Homeowners Association c/o Richard D. Boyles, Registered Agent 840 Beltline Road, Ste 202 Springfield, OR 97477

Re: Sahhali South Homeowners Association

Dear Mr. Boyles:

I represent owners within Sahhali South Homeowners Association, who have asked me to contact you about their concerns about the current governance of the Association. If the Association is represented by counsel, please have its attorney contact me.

1. Association and Declarant Violations of Law

As you know, the Association is governed not only by its Declaration of Covenants, Conditions and Restrictions, Bylaws, and Plat, but also the Oregon Planned Community Act, ORS 94.550 *et seq.* and the Oregon Nonprofit Corporation Act, ORS Chapter 65.

The Association and the Declarant are not following the requirements of its governing documents or Oregon law in at least five respects.

First, in 2021, the Association amended its Declaration without an owner vote in violation of Section 15.6 of the Declaration and ORS 94.590. Please note that under ORS 94.590(5), the Declarant is not entitled to a weighted vote to amend the Declaration despite the contrary language in Section 3.4.2 of the Declaration. As such, this amendment is voidable. The Declarant must not engage in any further amendments without strict adherence to the governing documents and Oregon law, including all notice and voting requirements.

Second, the Declarant has failed to record its Bylaws in the Tillamook County Records as required by ORS 94.625(1)(c).

Third, my clients understand that the Declarant has negotiated with an owner a reduced setback from 10-feet to 5-feet to facilitate construction of a two-unit townhome. If the Declarant has done so, it has violated Sections 10.1.1 and 10.13 of the Declaration and county setback requirements. If this unauthorized approval has occurred, the Declarant must contact that owner and retract any agreement due to its violations of the Declaration.

As noted above, if the Declarant wishes to amend the Declaration, it must do so with a 75% vote of all owners under ORS 94.590(5), and the Declarant is not entitled to a weighted vote.

Fourth, the Association has failed to hold annual meetings in violation of ORS 94.650(1). Article 3, Section 3.5 of the unrecorded Bylaws states that annual meetings are not required until the year following Turnover. But this provision violates Oregon law. These meetings must occur annually.

Fifth, the Association has failed to properly adopt budgets. In addition to 2019 and 2021, on March 4, 2022, without a meeting, the Declarant executed a "Memorandum of Consent and Action" to adopt the 2022 Association budget. But the Declarant cannot adopt the budget. Under ORS 94.645(1), the budget must be adopted by the Board of Directors. And the Board cannot adopt the budget merely by consent, it needs to schedule a meeting, which under ORS 94.644(1) and Article 4, Section 4.15 of the unrecorded Bylaws, must be open to all Association members.

Sixth, at some point rules and regulations were created. There are no meeting minutes or a board resolution reflecting the adoption of these rules. Without a record of the adoption, these rules and regulations are unenforceable.

A few of these violations can be easily corrected if the Board holds open board meetings as required by Oregon law. My clients demand that the Board hold an immediate and open board meeting to address and remedy the violations.

2. Records Request

ORS 94.670(9)(a) requires that the Association make its records available for examination and available for duplication. Under ORS 94.670(11), my clients request that the Association provide me the following records in 10 business days. The owners are entitled to receive these documents to review prior Board decisions and to evaluate the status of the Association's finances. If there are copying costs, please let me know these reasonable costs in advance.

- 1. All board meeting minutes from 2007 to the present.
- 2. All Declarant memoranda of consent and action from 2007 to the present, if not available on the Association's website.
- 3. The names, addresses, and phone numbers of the Association's current directors and officers.
- 4. All current board resolutions that are not available on the Association's website.
- 5. The names, addresses, email addresses, and phone numbers of all Association members, if not available on the Association's website.
- 6. The Association's financial statements from 2018 to the present.

7. The Association's bank statements for both its operating and reserve account from 2019 to the present.

8. All instruments of indebtedness of the Association and any Board resolution authorizing Association indebtedness.

3. Turnover

Finally, my clients ask that I remind you that Section 4.2 of the Declaration and ORS 94.604 require the Declarant to form a Transitional Advisory Committee to provide for transition of administrative control of the Association not later than 60 days after the Declarant has conveyed 50% of all votes in the Association. My clients and the membership have the legal responsibility to assure a smooth transition to owner control.

Thank you for taking the actions outlined above and for providing me the requested documents in the next 10 business days. If you'd like to contact me, you may do so by phone at (503) 517-8119 or by email at ptf@wysekadish.com.

Sincerely,

Patrick T. Foran

cc: Clients

SUPPLEMENT TO TESTIMONY OF WYATT ANGELO ON

APPLICATION OF SAHHALI SOUTH LLC (851-21-000002-PLNG)

(April 14, 2022)

If the Planning Commission believes that approval of the Application with conditions rather than a denial for insufficiency is appropriate, the witness would submit proposed conditions as set forth below.

APPLICATION GENERALLY:

Applicant should provide the Commission with the *detailed statement* and *demonstration* as to how the proposals (s) meet all the approval criteria of the Land Use Ordinance as required in the Approval Procedures. Land Use Ordinance 10.020(6)(v)

Comment: All of the lots specifically identified in the Application were designed as town home lots. (See Sahhali South Sales Brochure submitted herewith). By redesignating them for detached homes with significantly reduced setbacks changes the character of the greater portion of the development. At a minimum a detailed statement and demonstration required as a condition should include but not be limited to the following:

- 1. A photographic essay of each part of the development and structures as they now exist;
- 2. A rendering to scale of how homes on the designated lots with the proposed setbacks would appear with existing townhomes.

Absent this detail, it is difficult if not impossible for the Commission to make an informed decision as to whether the Application meets all of the approval criteria.

Applicant should be required to file an amended application which clarifies and specifies if the Application only "involves the 13 vacant lots controlled entirely by the Declarant" or if the proposed new setbacks apply to all lots with in the development, including those which are substantially larger and originally designated for detached homes.

Comment: As noted in my letter of February 11, 2022, the Applications Statement of Intent (p. 5) states that Request Number 5 (Setbacks) "involves 13 vacant lots". On the same page (paragraph 5) the Applicant states that it seeks to provide for consistent setbacks "throughout the development". These statements are inconsistent.

REQUESTS (3) PARTITION OF TRACT A:

Applicant designate an alternative property as substitute for common area/open space which is comparable to the existing open space proposed for replat as two lots.

Comment: The Applicant owns and controls other lots suitable for this purpose identified as Lots 1, 4 and 5 of Sahhali North.

REQUEST (5) ADOPT CONSISTENT SETBACKS AND AMEND CCRs SECTION 10.13

Section 15.6 of the Sahhali South CCRs provides that amendment of the CCRs by done by an 'instrument approved by not less than seventy-five percent (75%) of the total votes of each class of members that are eligible to vote."

As a condition of County Approval, the Applicant should provide the Planning Commission a certification that any proposed amendments to the CCRs separately and as contained in the Master Plan have been properly approved by 75% of total votes of each class of members.

Comment: At least one previous Applications to amend the CCRs as contained in the Master Plan were accompanied by a representation that the members had approved them by sufficient votes. This should be a requirement as a condition of approval. (See letter of Attorney Patrick Foran provided to the Community Development Department)





Sahhali Shores at Neskowin COA

44495 Sahhali Drive Neskowin, OR 97149

Website: www.sahhalishores.org

February 15, 2022

To: Tillamook County Planning Commission

Re: 851-22-000003-PLNG request for replat Sahhali South subdivision

It has come to our attention that the developer of the Sahhali South subdivision has requested a replat of that neighborhood. As our community is directly adjacent to Sahhali South any replat of that neighborhood will have a direct impact on the feel of our community. Of particular concern are two items in particular:

- 1) Changing the setbacks to allow homes to be within 5 feet of the property boarder. According to Tillamook Land Ordinance 3.320 the intent is to maintain the rural character of the Sahhali area (Sahhali Shores and South Sahhali). This will allow homes to be only ten feet apart and create much more density and take away from the rural feel of the neighborhoods that exist now with the 10 foot setbacks (which limits homes to within 20 feet of each other). Although that type of density may fit other parts of Neskowin and the County in general the Sahhali area has been specifically developed with a more rural feel with less density.
- 2) Replating Tract A from open space/undeveloped into 2 single family lots. In addition to the density concerns as outlined above this change in development would have a large impact on homeowners in Sahhali Shores who are adjacent to this tract. Their lots and homes have been bought and plans for homes have been designed to enjoy the open space near their home based on the original plat. Allowing homes to be built on that space is unfair to homeowners who were promised open space by the original plat map.

The community of Sahhali Shores appreciates you allowing us to provide our feedback on the proposed changes.

David McDonald, DVM

President, Sahhali Shores at Neskowin COA

SAHHARI SHERES AT ABECUSO 44498 SAHHARI DIZUR NEKOLUNI OR 97149 PORTLAND OR 972 16 FEB 2022 PM 5 L





TILLANCOK COUNTY
DEVELOPMENT
DEVELOPMENT
1510-B THIRD STREET
TILLANCOK, OR 97/41

97141-341010

SAMHARI SHUBS AT ABROWN 44498 SAMHARI DIZUR NESKOWN, OR 97149







TILLANCOK CONTY

DEVELOPMENT OF COMMUNITY DEVELOPMENT

1510-B THIRD STREET

TILLANCOK, OR 97/41

97141-341010

February 11, 2022

TO: Tillamook County Planning Commission

This letter is being submitted as written testimony in response to the Notice of Public Hearings, Tillamook County Planning Commission, Sahhali South Replat, Date of Notice: January 26, 2022. I respectfully request that this letter be included in the packet that is to be given to the Planning Commission prior to the February 24, 2022, hearing.

Thank you for taking the time to read the responses to <u>851-22-000003-PLNG</u> for replat of Sahhali South. I am the owner and full time resident of a home on Lot #7 in the community known as Sahhali South, having purchased here because of its rural nature as well as for the views of the ocean and wetlands.

The application for replat as expressed in GOALS 3, 4, 5, and 6 will significantly change the character, value and livability of the neighborhood.

GOAL 3: REPLAT OF TRACT A OPEN SPACE

The replat of Tract A, currently an open space area we had hoped to develop as a neighborhood park/meeting area, would result in two additional lots with two single family homes. This is inconsistent with TCLUO Section 3.520 (7) and Section 6.040 (4) because it would "alter the character of the surrounding area in a manner which substantially limits, impairs or prevents the use of surrounding properties for the permitted uses listed in the underlying zone." Additionally, the proposed addition of two residential home sites would block the ocean view of an existing home in Sahhali Shores and likely block the views of one another.

GOAL 4: REPLAT OF LOTS 13A and 13B

The current location of Lots 13A and 13B may not be easily buildable but the impact of homes built on those two original lots would not have an adverse impact on the environment, view or property values that the replat would inflict. The proposed replat bordering on the wetland is on a trail used by a herd of elk going to and from its night habitat in the wetland. One might argue that the elk will create an alternative trail but the proposed 5' interior line setback between single family homes in that area, as proposed by GOAL 5, will further inhibit access of the elk to the wetland.

The original plat of 13A and 13B is not on an elk trail. The original plat would not obstruct views. However, the proposed replat of those two lots would partially impact views from existing homes on Lots 7 and 8, significantly impact views from homes on Lots 9 and 10, and potentially affect views from Lots 11 and 12. Compromised views impact property value. However, the purpose of TCLUO Section 1.020 is to "preserve and stabilize the value of property."

In the application for replat the Declarant wishes "to swap" TRACT A Open Space on nearly level land for steep, unusable portions of the current Lots 13A and 13B. This is hardly an equitable trade off. It also violates our current Sahhali South Covenants, Section 6.4 entitled "Owners Easement of Enjoyment"

Anthony and Kristy Ryan 6425 Heron View Drive Neskowin, OR 97149

Tillamook County
Department of Community Development
Building, Planning & On-Site Sanitation Services
Attn: Melissa Jenck (Project Planner)
1510 – B Third Street
Tillamook, OR 97171
(503) 842-3408 (x3301) mjenck@co.tillamook.or.us

February 7, 2022

RE: 851-22-000003-PLNG (Sahhali South Replat) & 851-22-000003-PLNG-01 (Conditional Use request)

Dear Melissa,

This letter is being submitted as written testimony in response to your letter titled "Notice of Public Hearings, Tillamook County Planning Commission, Sahhali South Replat", Date of Notice: January 26, 2022. As the owners of Sahhali South, Lot 10, we respectfully request that this response be included in the packet that is to be mailed to the Planning Commission prior to the scheduled February 24, 2022, hearing regarding this matter.

Regarding Application Request (Amendment to the Sahhali South Master Plan) Goal 3 - Tract A Partition to create Lot A-1 and Lot A-2:

We strongly disapprove this proposal for the following reasons.

- Tract A is currently classified as Open Space area and as such, serves to enhance the character of
 the Sahhali South neighborhood, livability of surrounding homeowners and the general
 enjoyment of ocean views, territorial views, flora and fauna for the enjoyment of residents and
 visitors. The proposed addition of two residential home sites in that area would detrimentally
 impact those characteristics and would be inconsistent with TC Land Use Ordinance Section
 6.040(4) and Section 3.520(7) which both state that "the proposed use will not alter the
 character of the surrounding area in a manner which substantially limits, impairs or prevents the
 use of surrounding properties for the permitted uses listed in the underlying zone".
- Tract A (Open Space) has development potential as a neighborhood park, or similar use which would be consistent with the underlying goals and policies of the Comprehensive Plan, by enhancing the character of the surrounding area for its intended use.

Regarding Application Request (Amendment to the Sahhali South Master Plan) Goal 4 – Replat Partition to create Lots 13a, 13b, Open Space:

We strongly disapprove this proposal for the following reasons.

have consistently indicated specific lots designated for either attached, or detached SFH construction. The dramatic reduction in side yard setbacks (from 15 feet to 5 feet) for detached SFH, in an apparent effort to encourage the construction of detached SFH on lots originally designed for and designated as attached SFH, will negatively impact and alter the character of the surrounding neighborhood and as such, is inconsistent with the recorded C, C & Rs document on file for the Sahhali South Planned Development community, as well as the goals and policies of the Comprehensive Plan.

Reducing side yard setbacks will negatively impact the apparent building density and proportion of landscaping, further altering the character of the Planned Development Community, affecting views, property values and wildlife movement. There will also be an increased risk of fire spread between homes and difficulties associated with building access and maintenance.

We appreciate your time and thoughtful consideration of our concerns regarding the untimely and illconceived proposal put forward by the Developer, Mr. Richard Boyles.

Respectfully,

Anthony B. Ryan

Kristy L. Ryan

GENERAL MERRILL A. MCPEAK, USAF (RET.) 3550 SW BOND AVENUE, UNIT 2204 PORTLAND, OREGON 97239

February 6, 2022

Subject: 851-22-00003 PLING request to replat Sahhali South

My wife and I own a property in the Sahhali South development, specifically Lot 26, the plat thereof recorded February 16, 2007, in Plat Cabinet B-987-0, as 2007-001312, Records of Tillamook Country, Oregon.

I object to the proposed replat. My wife and I are original owners of this property, the sale to us closing on April 15, 2009. We purchased the unit on the understanding that the community would be developed in a certain way, under rules and restrictions aimed at producing a harmonious and pleasing result. As near as I can see, some of the conditions we relied on during the sale process are now to be changed without our agreement or input, or in fact, any discussion at all with us. I am particularly concerned about a change to setback requirements and proposed modifications that would allow for construction of carports and other structures not in keeping with the character of the neighborhood.

As a minimum, I request that public discussion and a decision about the requested replat be delayed until my wife and I (and, I understand, others in the community), have an opportunity to present our case against the proposal. Better yet, the proposed replat should be rejected out of hand as being an unfair and potentially illegal violation of the original sale provisions.

MamoPose

Todd Karakashian & Paul Fukui 45060 Proposal Point Drive Lot 42, Sahhali South Neskowin, OR 97149

February 12, 2022

Tillamook County Department of Community Development 1510-B Third Street Tillamook, OR 97141 Attn: Melissa Jenck, Project Planner Letter to be presented to the Planning Commission

RE: 851-22-000003-PLNG and 851-22-000003-01

This letter constitutes the written testimony of Todd Karakashian and Paul Fukui, owners of lot 42, Sahhali South, on which our townhouse is built. This expresses some of our concerns, but due to the lack of adequate time to fully review and understand the 208 pages of the proposal, there may be additional concerns that we will identify as we have time to review it in further depth. Also, as far as I know, there has been no environmental impact analysis of the proposed changes – Sahhali South directly abuts the National Wildlife Refuge.

Concern #1: Changes to dwelling types and setbacks

When we purchased our lot and unit in 2020, we understood from the existing plan that future lots would be developed in the form of townhomes, each pair consisting of one duplex building that straddles two adjacent lots, similar to ours. This allows for ample space between buildings, preserving the relaxed, open layout of the development with lots of green space, ample room for the elk and deer to wander, and allowing for good views for all owners. My understanding is that the developer now wishes to allow single-family homes on all lots, and not just the replats, so he can sell each lot individually. These lots were not laid out for this purpose! In order to shoehorn a single-family home onto each lot he wants to relax the setbacks between buildings so they are much closer together. This will radically change the character of the development, making it feel far more crowded, perhaps closer in style to the oceanfront part of The Capes development in Oceanside, rather than the spacious development that it is today, which is well-integrated with the natural surroundings.

Concern #2: Replat of Lots 46, 47, 48

These lots are directly between our lot and our view of the ocean. While I have no objection in general to these lots being developed, I am concerned that the changes to the plats along with the reduced setbacks will make it easier to develop tall structures that will block our views. There is view protection built in to the CC&Rs, but it also seems the developer can override any element of the CC&Rs if he wishes to.

Concern #3: Loss of usable community open space

The developer wishes to seize the current open space that is set aside for the Sahhali South community and make it into additional cramped single-family lots that he can sell. In return for this, he proposes to give the community a very steep, overgrown lot on which nothing productive can be developed for community use. We oppose this without reservation. This land grab is emblematic of the whole attitude the developer has shown towards the Sahhali South residents.

Ron and Lynell Bohr Lot 37, Sahhali South Neskowin, OR 97149

February 11, 2022

Tillamook County Department of Community Development 1510-B Third Street Tillamook, OR 97141 email + hard Copy

Attn: Melissa Jenck, Project Planner Letter to be presented to the Planning Commission

RE: 851-22-000003-PLNG and 851-22-000003-01

Please regard this as our written testimony in response to the above referenced replat requests.

My wife and I have been owners of lot 37 in Sahhali South since 2008. The proposed changes are being presented to Tillamook County with no requested input from the owners. These changes will significantly affect the character and esthetic value of the community.

We specifically object to:

1. Goal 3 (Partition Tract A: Open Space into 2 lots) and Goal 4 (Replat Partition lots 13a and 13b into 2 lots and 1 open space Tract A). These items will move the Open Space area to an area that is basically unusable for its intended purpose (an open space to enhance the esthetic value of the community) and benefits only the developer to sell an area that is more suitable for building and sale.

Goal 5 (Consistent Setbacks). This change would allow for a reduction in setback. requirements for interior side yards from 10' to 5' for detached single family dwellings for lots that were originally designed for attached single family dwellings (which all the currently built homes are). This would essentially allow for "row houses" not conducive to the initial design criteria and expectations of all owners. Better would be to convert the 2 lots designed for attached single family dwellings into 1 lot for 1 detached single family dwelling and adhere to the original 10' setback.

Conclusion:

These changes would negatively affect the esthetics as well as property values of this beautiful ocean side community. Due to the current state of the home buying frenzy, the developer is obviously trying to maximize profits to the detriment of the owners.

Sincerely,

Ron and Lynell Bohr ronbohr@cox.net

Tillamook County Planning Commission 1510 - B Third Street Tillamook, Oregon 97141 RE: 851-22-000003-PLNG

I am the owner of lot #36 in Sahhali South and live here full time. I am responding to the "Request for replat of a subdivision plat approval for a portion of "Sahhali South" together with Conditional Use request #85 1-22-000003-PLNG-01, to amend the Planned Development Master Plan." This is my written testimony to be included in the staff report on the Sahhali South Application for Replat application #851-22-000003-PLNG.

I am registering my objection to the following items in this Land Division Application request as presented to Tillamook County Planning Commission, and request that they not be approved.

Item 1 - no objection

Item 2 - no objection

Item 3 - OBJECTION Partition Tract A: Open Space into (2) Lots. Tobject to the open space conversion to building lots.

Item 4 – OBJECTION to replating and exchanging open space to the east of current 13B for the open space proposed to the west of 13A. This is <u>not</u> an acceptable open space exchange for the current open space now referred to as A-1 and A-2. It is also not acceptable because the new 13B proposed replat blocks the view line for lots 9-12.

Item 5 - OBJECTION to the change in setbacks

- a) The Proposed Amendment to Recorded CCR Section 10.13 will increase the density of the development, reduce views and will affect properties outside of the "subject properties boundaries" in the application identified in Exhibit A page 7.
- b) This does not meet Tillamook Land Use Ordinance Section 1.020 Purpose. The proposed setbacks will not serve the purposes listed which are to "encourage the orderly development of land, ...to preserve and stabilize the value of property; aid in the provision of fire and police protection; facilitate the provision of community services (water, propane) prevent undue concentration of population, protect and enhance the appearance of the landscape and to protect and promote public safety.
 - c) Under Tillamook Land Use Ordinance section 6.040 Review Criteria:
 - -section 3: The remaining lots in the subdivision are not suitable for a setback change based on size, shape, location, existence of improvements
 - -section 4: The proposed new setbacks will alter the character of the surrounding area in a manner which impairs or prevents the use of surrounding property for residential, recreational purposes.
 - d) This is a substantial change to the appearance of the subdivision as it exists. Currently all dwellings are spaced 20 feet apart.

Item 6 – OBJECTION The Proposed Amendment to Recorded CCR Section 10.3.1 removes the requirement for full compliance with the zoning restrictions of Tillamook County. It makes the allowed land uses less restrictive, is subject only to the developer run Architectural Review Board which allows no other owner or resident participation. It is not in the best interest of the resident owners of the development.

Sincerely

Peggy R Richards

45170 Proposal Point Dr (lot 36)

Neskowin, Oregon 97149

prmcelroy@msn.com

503-720-7585

Tillamook County Planning Commission 1510-B Third Street Tillamook, OR 97141

February 9, 2022

I'm responding to a request for replat approval #851-22-000003-PLNG-01 with objections.

There are specified tax lots listed in the opening paragraph of exhibit A, and outlined in red in the Sahhali South plat map. What are not defined are the proposed changes on the other lots seen on the table on pages 17 and 18, specifically Lots 20-45. This table shows Lots 20-45 allowing either a detached 1 family or an attached 2 family home. This is addressed briefly in the narrative in Section 3.520(3)(a): "...the application clarified that both attached and detached dwellings are allowed on lots 1-45,..."

When I purchased lot 28 in 2008 there was no such understanding. Proposal Point Drive was intended for attached 2-family homes, ie. the townhomes. The proposed clarification will negatively alter the aesthetic properties of the neighborhood as originally conceived and advertised.

The neighborhood was intended to be built with well-spaced and complementarily designed townhomes. The new proposal says that smaller, more crowded homes can be built in their place. These can have architectural designs that are quite disparate without neighborhood input.

The increase in construction density caused by building 2 separate 1-family homes will directly impact the enjoyment of and the value of my home. Lot 30 and Lot 31 (formerly 30/31) are to be sold as 2 separate 1-family homes. There will be 2 separate construction crews working simultaneously in a very concentrated area over an extended period of time (construction delays caused by supplies and manpower shortages). The doubling of construction crews, machinery, noise, and traffic is not healthy for the wildlife residing in the contiguous wetlands and national animal refuge. It also negatively impacts the peace and enjoyment of my home and neighborhood. In addition, lot 24, on the other side of my home has a pending sale which adds yet another construction site near my home. That would place 3 construction sites in the Proposal Pt. cul-de-sac simultaneously.

Please vote against replatting lots 1-45 in Sahhali South as described in 851-22-000003-PLNG-01.

Sincerely,

M. Christine Hauptmann, MD 45250 Proposal Point Drive (lot #28)

Neskowin, OR 97149

February 11, 2022

Tillamook County Department of Community Development

1510-B Third Street

Tillamook, OR 97141

Re: Application 851-22-000003-PLNG

This is the written testimony of Wyatt Angelo and Linda Angelo, owners of Lot 49, Sahhali South, with reference to the above Application and addresses Request 3,"Partition Tract A," and Request 5, "Adopt Consistent Setbacks, Amend CCRs Section 10.13, Addendum to Master Plan." We also request the opportunity to present oral testimony at the hearings in February and April.

BACKGROUND

Sahhali South Development is situated approximately 25 miles south of Tillamook, west of Highway 101. It is bounded on the west and south by a wildlife refuge. Currently there are 63 residential lots, the majority of which are adjacent to the Sahhali Shores subdivision and are serviced by a common access road (Sahhali Drive) from Highway 101. There are 7 lots in a standalone unit approximately 250 yards south of the main development and serviced by a separate access road from Highway 101 (Pelican Point Drive).

The lots in the northern area of the development average about .12 acres, and all of the structures constructed there today are attached (townhomes). The lots on Pelican Point Drive average approximately .25 acres; and currently there is one detached home on Lot 49, belonging to the undersigned.

The Homeowners Association (HOA) is essentially non-functioning by choice of the developer/applicant, who controls the affairs of the association (including Architectural Control Board) per the CCRs and percentage of ownership. No meetings of the Association have been noticed, called or scheduled in the last two years. Non-affiliated lot owners receive, and are required to pay, an annual bill for dues which are set by the developer. Approximately 46% of the dues paid by owners in 2021 were used for 'common area operations' and another 27% of those dues were levied for the 'common area capital fund.' The applicant is exempt from paying HOA dues.

THE APPLICATION IS DEFICIENT/INCOMPLETE

The County Development Approval Procedures (LUO 10.020 (6)(v) mandates that an application contain "a detailed statement that demonstrates how the proposal meets all approval criteria . . ."

The Application's "detailed statement" as to approval criteria 4 (LUO SECTION 6.040) at page 22 states:

"The 2021 Amendment to Sahhali South Planned Development Subdivision does not alter the character of the surrounding area in any way that substantively limits, impairs, or prevents the use of surrounding properties for the permitted uses listed in the underlying zone. The 2021 Amendment to Sahhali South continues the development character of detached and attached single-family-dwellings with the Sahhali South 2005 and 2007 decisions."

In short, an application itself is deficient if it does not make the detailed showing as to each of the criteria set forth in the Approval Procedures. The applicable language of this Application is conclusory

and devoid of detail as to ANY of the six Goals of the Application. Because the Application does not conform to the LUO standards, it should be denied without a hearing. Should the Community Development Department or the Planning Commission wish to allow the applicant to supplement the Application, all hearings should be continued to allow further community input on the supplemented Application.

GOAL 3, PARTITION TRACT A

Tract A is open space at the entrance to both Sahhali South and Sahhali Shores. Applicant proposes to remove Tract A from 'open space' and divide and sell it as two lots. This has been identified open space for the development (common area as defined by statute) since inception and is the only common space which is relatively level, centrally located and accessible. This is not true of the property to be substituted. The naked assertion that taking Tract A from open space "will not alter the character which substantially limits, impairs or prevents the use of surrounding properties for permitted uses" is completely lacking in the detail required and inconsistent with the applicant's own goals for the development. See above.

GOAL 5, ADOPT CONSISTENT SET BACKS

CHANGE OF CCRs BY APPLICATION OF TILLAMOOK COUNTY LAND DEVELOPMENT ORDINANCE (LDO)

We do not believe that the provisions of the Tillamook County Land Development Ordinance can be applied to a change to the CCRs as set forth in Application Goal 5. The Land Development Ordinance prohibits changes to CCRs as part of that review process. Application p. 27, LDO Section 120 (3)(c).

CHANGE OF CCRs BY APPLICATION OF TILLAMOOK COUNTY LAND USE ORDINANCE (LUO)

Introduction.

The Application seems inconsistent, in that the Statement of Intent (p. 5) specifically states that the request "involves 13 vacant lots controlled entirely by the Declarant." This is misleading because reading further, on page 5 at paragraph 5 the Application states that it seeks to amend the Master Plan and CCRs to provide for "consistent setback requirements throughout the development." The Staff should clarify this with the applicant and modify the Application accordingly, with an appropriate period for supplemental input by lot owners.

CCRs are not a "USE"

As we read it, Application Goal 5 seeks to alter the CCRs originally filed as part of the master plan in order to change side yard setbacks from 15 feet to 5 feet for each lot on which a detached residence is constructed via the CONDITIONAL USE PROCEDURES AND CRITERIA in ARTICLE V of the LUO. "USE" is defined in the LUO as "The purpose for which a structure is designed, arranged, or intended, or for which a unit of land is developed, occupied or maintained." LUO DEFINITIONS 11.030. The CCRs and setbacks themselves are clearly not a "purpose," and therefore the provisions of the LUO should not apply. This would seem to make sense, as neither setbacks nor CCRs are listed in the LUO as either a conditional use or use as a matter of right. The Planning Commission and the County should reject this part of the Application as beyond the authority granted to them under the LUO.

Standing

Even assuming the provisions of the Land Use Ordinance apply, Section 10.020 of the Land Use Ordinance prohibits the Applicant from applying for such a change to setbacks for property it does not own. It, therefore, has no standing to seek to modify property owned by others.

Authority to Change CCRs

The Sahhali South CCRs provide for changing the CCRs by vote of the owners (CCRs Section 15.6). The Applicant has not availed itself of the very process it created. Insofar as the Application seeks to change CCRs, it is at least premature and probably seeks to persuade the County to act where it has no authority. To now seek to use the County Planning process to change CCRs after properties within the development have been purchased and built on by third parties is manifestly unfair, and the County should not allow itself to facilitate it.

Neither the Land Division Ordinance or the Land Use Ordinance apply to changing CCRs. The request is beyond the authority of the County to act through the planning process and should be denied.

Tillamook County Land Use Ordinance SECTION 6.040 REVIEW CRITERIA

If the County believes changing CCRs is a "USE" to be reviewed, we now address REVIEW CRITERIA (3) Suitability of Parcel and (4) Alteration of Character.

Suitability: LUO REVIEW CRITERIA Section 6.040 (3)

The Application seeks to change setbacks established by the current CCRs in a substantial and dramatic way. The proposed change to the side yard setbacks in the CCRs from 15 feet to 5 feet for detached homes (a 66% reduction of side yard space) is not suited to the location of the Applicant's lots. Those lots are currently intermingled in a subdivision wherein 16 attached (townhomes) and 1 detached (single family) residence have been constructed. The townhomes have a 10 foot side yard setback or distance of 20 feet between structures.

To now permit the construction of detached homes with side yard setbacks of 5 feet - interspersed beside and between townhomes with larger setbacks - will substantially change the character and aesthetics of the development. Furthermore, the setbacks proposed are urban in nature, not rural residential.

Neskowin Rural Residential zoning allows for 5 foot setbacks where the minimum lot size is 20,000 square feet (LUO 3.320(4). The majority of the vacant lots that are the subject of this Application were designed for townhomes and average less than 6000 square feet. Reducing side yard setbacks by 66% for detached homes is not *compatible* with the development and improvements as they exist today. In considering "suitability," the County must consider the size, location and existence of other improvements, including those other homes constructed within the development (LUO Section 6.010 and Section 6.040(3).

Alteration: LUO REVIEW CRITERIA 6.040 (4)

The implications of a 10 foot total distance between structures in a non-urban area are substantial and alter the character of the Development. A limited few are discussed below.

Privacy

Privacy impacts on adjacent homeowners cannot be ignored. While visual 'trespasses' may be mitigated by fencing, the CCRs in Section 10.11 state that no fence is permitted within the minimum setback line and the property line. It is physically impossible to build a fence in this space without building within the setback or encroaching on the adjacent property. People's everyday privacy concerns about what goes on in their homes should be paramount. They are substantially and adversely impacted by closer setbacks.

Normal day-to-day activities related to homeownership and maintenance are limited and impaired (LUO REVIEW CRITERIA 6.040(4).

As an example, one cannot safely erect a ladder for second story or roof maintenance within a 5 foot side yard setback. The height limitation in the CCRs range from 24-35 feet (Neskowin RR). One cannot safely erect a ladder to a 24 foot roof with less than 6 feet of space for the base of the ladder from the wall.

Quiet Enjoyment

The adverse impacts of construction and excavation on adjacent properties, their occupants, and their ability to enjoy their homes are substantial with smaller setbacks. Noise, excavated material and access by equipment to sites will impinge on adjacent properties if smaller setbacks are permitted. Current setbacks are adequate to mitigate these impacts; the proposed side yard setback is not.

Public Safety

Risk of fire spread from one home to another by virtue of radiant heat transmission is greatly increased by reducing the distance between structures. This is particularly applicable in Sahhali, where winds are constant and normal gusts dangerous in fire situations.

THE APPLICATION CONSIDERED IN ITS ENTIRETY

When considered together, the overall impact of the Application requests is greater than those of the individual parts. Chopping space between homes by 66%, changing lot configurations to interfere with owner view corridors, 'taking' and selling the only centrally located and accessible common space - all in a relatively small/compressed area of homes - is devastating to the character, value, and desirability of the Development and the legitimate expectations of current owners regarding the enjoyment of their homes. Granting Requests 3 and 5 will violate the purposes of the LUO. See LUO PURPOSE, SECTION 1. The Application's statement (p. 22) that the proposed changes "will not alter the character of the surrounding area" is conclusory and devoid of the detail required to consider or grant the Application.

Thanks to the staff and the Planning Commission for the opportunity to present written testimony.

Sincerely,

att Angelo Linda Angelo

Address: 6375 Pelican Point Drive, Neskowin, OR 97149

Phone: 970-275-3630

Email:

Submitted by email February 13, 2021 addressed to and

. Original is signed and delivered on February 14, 2022

Tillamook County Planning Commission 1510 - B Third Street Tillamook, OR 97141

Re: Permit ID # 851-22-000003-PLNG

I am a permanent resident and homeowner of Lot 43 in Sahhali South and have been living here full time since October 31, 2019. I am responding to the "Request for replat of a subdivision plat approval for a portion of "Sahhali South" together with Conditional Use request #85 1-22-000003-PLNG-01, to amend the Planned Development Master Plan." This is my written testimony to be included in the staff report on the Sahhali South Application for Replat application #851-22-000003-PLNG. I ask to also be included in providing oral testimony.

I am registering my objection to the following items in this Land Division Application request as presented to Tillamook County Planning Commission, and request that they not be approved.

Item 1 - I do not have an objection

Item 2 – I do not have an objection

Item 3 – OBJECTION Partition Tract A: Open Space into (2) Lots. I object to the open space conversion to building lots:

- a) When I was considering purchasing a home in Sahhali South (more specifically Lot 43), I did so while factoring in the open space immediately across the street. Since the existing homes were a bit close together, I felt the space would provide a sense of openness that would offset any density from the other homes. The relocation of this open space for the more steeply sloped, inaccessible areas of lots 13A and 13B is not a comparable exchange.
- b) Having worked for new home construction developers for most of my 40 plus year career (one builder for over 18 years), I had an expectation the developer would continue with the plan presented to me prior to my purchase. I always made sure I worked for developers who committed to do the right thing by honoring the proposed plan and promised expectations of their homebuyers. This is not consistent with the goals and policies of the Sahhali South Comprehensive Plan. Also, adding to the number of building lots increases the density of the development and decreases the views of residents to both the mountains and the ocean.
- c) The residents of Sahhali South have been considering uses for the open space on the corner of Heron View and Proposal Point. The central location of this open space and the flat ground area make this a perfect location for a community gathering place, recreation or potentially a future community center (as identified on page 14 of the Master Development Plan). Several residents

have already taken the time to clear some of the weeds and plant wildflowers and plants. Elk and deer graze in this area contributing to the character of the community.

d) This change would alter the character of the surrounding area in a manner which limits and impairs the use of the surrounding area and non-beach recreational opportunities in the development. The community will be unable to utilize the open space currently in lots 13A and 13B steep slope.

Item 4 – OBJECTION to replating and exchanging open space to the east of current 13B for the open space proposed to the west of 13A. Note that this is <u>not</u> an acceptable open space exchange for the current open space now referred to as A-1 and A-2. It is also not acceptable due to the fact that the new 13B proposed replat blocks the view line for lots 9–12.

Item 5 – OBJECTION This change to setbacks would require a vote by the owners of Sahhali South to amend the CC&R's.

- a) Applicant does not have the sole right to amend SS CC&R's as set forth on page 13 of application.
 - CC&R'S section 3.4.1 provides that I am a class A member of the association.
 - Setbacks for lots are found in section 10.13 of the CC&R's.
 - The sole procedure for amending the CC&R's is set forth in section 15.6 requires a vote of association members of both classes and the approval of not less than 75% of <u>each</u> class of members.
 - No such vote has been held, scheduled or even noticed and the Applicant has been silent on doing so.
- b) The Proposed Amendment to Recorded CC&R Section 10.13 will increase the density of the development, reduce views and <u>will</u> affect properties outside of the "subject properties boundaries" in the application identified in Exhibit A page 7.
- c) This does not meet Tillamook Land Use Ordinance Section 1.020 Purpose. The proposed setbacks will not serve the purposes listed which are to "encourage the orderly development of land, . . . to preserve and stabilize the value of property; aid in the provision of fire and police protection; facilitate the provision of community services (water, propane) prevent undue concentration of population, protect and enhance the appearance of the landscape and to protect and promote public safety."
- d) Under Tillamook Land Use Ordinance section 6,040 Review Criteria:
 - Section 3: The remaining lots in the subdivision are not suitable for a setback change based on size, shape, location, existence of improvements.
 - Section 4: The proposed new setbacks will alter the character of the surrounding area in a manner which impairs or prevents the use of surrounding property for residential, recreational purposes.
- e) Close setbacks on the side like this will make it difficult to repair or install utilities along sides of house.
- f) This is a substantial change in the appearance of the subdivision as it exists and the landscape, as currently all dwellings are spaced 20 feet apart.

Item 6 – OBJECTION This change to allowed land uses would require a vote by the owners of Sahhali South to amend the CC&R's. Section 15.6 of the CC&R's states that <u>each</u> class of ownership has to approve a change in the CC&R's by 75%. No such request for change has been presented to the residents and owners of property in the development, nor has a vote been conducted. The Proposed Amendment to Recorded CC&R Section 10.3.1 removes the requirement for full compliance with the zoning restrictions of Tillamook County. Making the allowed land uses less restrictive and subject only to the developer run Architectural Review Board, that allows no other owner or resident participation, is not in the best interest of the resident owners of the development.

I look forward to discussing these issues with the Commission in the hearings scheduled for February and April.

Sincerely,

Pam Johnson

45050 Proposal Point Drive (Lot 43)

Neskowin, OR 97149

pami714@gmail.com

(949) 933-9012

Tillamook County Planning Commission 1510 - B Third Street Tillamook, Oregon 97141 Duplicate of e-mail submittal

February 9, 2022

RE: 851-22-000003-PLNG

I am an owner of lot #44 in Sahhali South and have been living here permanently since September 2020. I am responding to the "Request for replat of a subdivision plat approval for a portion of "Sahhali South" together with Conditional Use request #85 1-22-000003-PLNG-01, to amend the Planned Development Master Plan." This is my written testimony to be included in the staff report on the Sahhali South Application for Replat application #851-22-000003-PLNG. I ask to also be included in providing oral testimony.

I am registering my objection to the following items in this Land Division Application request as presented to Tillamook County Planning Commission, and request that they not be approved.

Item 1 - no objection

Item 2 - no objection

Item 3 – OBJECTION Partition Tract A: Open Space into (2) Lots. I object to the open space conversion to building lots.

- a) The residents of Sahhali South have been considering uses for the open space on the corner of Heron View and Proposal Point. The central location of this open space and the flat ground area make this a perfect location for a community gathering place, recreation or potentially a future community center (as identified on page 14 of the Master Development Plan). Several residents have already taken the time to clear some of the weeds and plant wildflowers and plants. Elk and deer graze in this area contributing to the character of the community.
- b) When I purchased my lot in Sahhali South, I did so with the knowledge and expectation of enjoying the open space across the street that compensated for the close proximity of dwellings. The relocation of this open space for the more steeply sloped, inaccessible areas of lots 13A and 13B is <u>not</u> a comparable exchange.
- c) This change would alter the character of the surrounding area in a manner which limits and impairs the use of the surrounding area and non-beach recreational opportunities in the development. The community will be unable to utilize the open space currently in lots 13A and 13B steep slope.
- d) This is not consistent with the goals and policies of the Comprehensive Plan. Also, increasing the number of building lots increases the density of the development and decreases the views of residents to both the mountains and the ocean.

Item 4 – OBJECTION to replating and exchanging open space to the east of current 13B for the open space proposed to the west of 13A. Note that this is <u>not</u> an acceptable open space exchange for the current open space now referred to as A-1 and A-2. It is also not acceptable due to the fact that the new 13B proposed replat blocks the view line for lots 9 - 12.

Item 5 – OBJECTION This change to setbacks would require a vote by the owners of Sahhali South to amend the CC&R's.

- a) Applicant does not have the sole right to amend SS CCRs as set forth on page 13 of application.
 - CCR section 3.4.1 provides that I am a class A member of the association
 - Setbacks for lots are found in section 10.13 of the CCRs
 - the sole procedure for amending the CCRs is set forth in section 15.6 requires a vote of association members of both classes and the approval of not less than 75% of <u>each</u> class of members.
 - no such vote has been held, scheduled or even noticed and the Applicant has been silent on doing so.
- b) The Proposed Amendment to Recorded CCR Section 10.13 will increase the density of the development, reduce views and will affect properties outside of the "subject properties boundaries" in the application identified in Exhibit A page 7.
- c) This does not meet Tillamook Land Use Ordinance Section 1.020 Purpose. The proposed setbacks will not serve the purposes listed which are to "encourage the orderly development of land, ...to preserve and stabilize the value of property; aid in the provision of fire and police protection; facilitate the provision of community services (water, propane) prevent undue concentration of population, protect and enhance the appearance of the landscape and to protect and promote public safety.
- d) Under Tillamook Land Use Ordinance section 6.040 Review Criteria:
 - -section 3: The remaining lots in the subdivision are not suitable for a setback change based on size, shape, location, existence of improvements
 - -section 4: The proposed new setbacks will alter the character of the surrounding area in a manner which impairs or prevents the use of surrounding property for residential, recreational purposes;
- e) Close setbacks on the side like this will make it difficult to repair or install utilities along sides of house
- f) This is a substantial change in the appearance of the subdivision as it exists and the landscape, as currently all dwellings are spaced 20 feet apart.

Item 6 – OBJECTION This change to allowed land uses would require a vote by the owners of Sahhali South to amend the CC&R's. Section 15.6 of the CCRs states that <u>each</u> class of ownership has to approve a change in the CCRs by 75%. No such request for change has been presented to the residents and owners of property in the development, nor has a vote been conducted. The Proposed Amendment to Recorded CCR Section 10.3.1 removes the requirement for full compliance with the zoning restrictions of Tillamook County. Making the allowed land uses less restrictive and subject only to the developer run Architectural Review Board, that allows no other owner or resident participation, is not in the best interest of the resident owners of the development.

I look forward to discussing these issues with the Commission in the hearings scheduled for February and April.

Best Regards,

45040 Proposal Point (Lot #44)

Neskowin, Oregon 97149 hammackk@gmail.com

602-370-1005

Lisa A. Bentson 6435 Heron View Drive Neskowin, OR 97149

Tillamook County
Department of Community Development
Building, Planning & On-Site Sanitation Services
Attn: Melissa Jenck (Project Planner)
1510 – B Third Street
Tillamook, OR 97171

(503) 842-3408 (x3301) mjenck@co.tillamook.or.us

submitter hard Copy only

February 12, 2022

RE: 851-22-000003-PLNG (Sahhali South Replat) & 851-22-000003-PLNG-01 (Conditional Use request)

Dear Melissa,

This letter is being submitted as written testimony in response to your letter titled "Notice of Public Hearings, Tillamook County Planning Commission, Sahhali South Replat", Date of Notice: January 26, 2022. As the owners of Sahhali South, Lot 9, we respectfully request that this response be included in the packet that is to be mailed to the Planning Commission prior to the scheduled February 24, 2022, hearing regarding this matter.

Regarding Application Request (Amendment to the Sahhali South Master Plan) Goal 3 - Tract A Partition to create Lot A-1 and Lot A-2:

We strongly disapprove this proposal for the following reasons.

- 1. Tract A is currently classified as Open Space area and as such, serves to enhance the character of the Sahhali South neighborhood, livability of surrounding homeowners and the general enjoyment of ocean views, territorial views, flora and fauna for the enjoyment of residents and visitors. The proposed addition of two residential home sites in that area would detrimentally impact those characteristics and would be inconsistent with TC Land Use Ordinance Section 6.040(4) and Section 3.520(7) which both state that "the proposed use will not alter the character of the surrounding area in a manner which substantially limits, impairs or prevents the use of surrounding properties for the permitted uses listed in the underlying zone".
- Tract A (Open Space) has development potential as a neighborhood park, or similar use which would be consistent with the underlying goals and policies of the Comprehensive Plan, by enhancing the character of the surrounding area for its intended use.

Regarding Application Request (Amendment to the Sahhali South Master Plan) Goal 4 – Replat Partition to create Lots 13a, 13b, Open Space:

We strongly disapprove this proposal for the following reasons.

have consistently indicated specific lots designated for either attached, or detached SFH construction. The dramatic reduction in side yard setbacks (from 15 feet to 5 feet) for detached SFH, in an apparent effort to encourage the construction of detached SFH on lots originally designed for and designated as attached SFH, will negatively impact and alter the character of the surrounding neighborhood and as such, is inconsistent with the recorded C, C & Rs document on file for the Sahhali South Planned Development community, as well as the goals and policies of the Comprehensive Plan.

Reducing side yard setbacks will negatively impact the apparent building density and proportion of landscaping, further altering the character of the Planned Development Community, affecting views, property values and wildlife movement. There will also be an increased risk of fire spread between homes and difficulties associated with building access and maintenance.

We appreciate your time and thoughtful consideration of our concerns regarding the untimely and illconceived proposal put forward by the Developer, Mr. Richard Boyles. *This letter, among the numerous* others you will receive represents a substantial percentage of the Homeowners (sold lots with homes already built). Please give our concerns the consideration they deserve as it represents most of the people living here and calling it home.

Respectfully

Lisa A. Bentson

Peter and Stephanie Sammons 3508 SW Gale Ave Portland, OR 97239

Sarah Absher, CFM, Director
Tillamook County Department of Community Development
1510-B Third Street
Tillamook, OR 97141

Dear Sarah-

We are writing in regard to Notice of Public Hearing 851-22-000003-PLNG, Sahhali South Replat.

We have owned our home in Sahhali South (Lot #29) since August 2008. We are concerned about the Sahhali South Replat Amendment Requests that are being proposed and the impact these changes will have on maintaining the value of our home and the integrity of our neighborhood.

The specific amendments that we are most concerned with are the following:

3. Partition Tract A: Open Space into (2) Lots:

We feel that the trade between the open space and Lots 13a and 13b is not an equitable trade. The open space is flat and Homeowners have been discussing using it to create a community gathering place or neighborhood park. Lots 13a and 13b are very steep and would not be usable for a community park or gathering space.

5. Consistent Setbacks: Master Plan and CCR Section 10.13 Amendment Language:

Currently, the side setback on single family homes is 15 feet (CCR 10.13) but the amendment requests that single family homes be allowed with a side setback of 5 feet. The original 15 feet setback for single family homes and 10 feet side setback for attached living units (townhomes) was established to preserve and stabilize the value of the property; aid in the provision of fire and police protection; preserve access to adequate light and air; facilitate the provision of community services such as water supply, utilities and propane delivery; and to protect and enhance the appearance of the landscape. We are concerned the change in side setback for single family homes from 15 feet to 5 feet (page 11 of Replat Amendment Request) will devalue our property, change the consistent "Planned Community" (CCR 1.13) that exists today and potentially impact the "Natural Features" (CCR 8.1) including flora, fauna and wildlife corridors that exist between our properties.

6. Allowed Land Use: Master Plan Amendment Languages:

We are concerned that this request is being made. Our current CCR (15.6 Amendment) states that a vote is needed to change the CCR: "this Declaration may be amended at any time

by an instrument approved by not less than seventy-five percent (75%) of the total votes of each class of members that are eligible to vote".

These amendment requests were not presented to the Class A Members of the Association for either discussion or vote. In forwarding this proposal to the Tillamook County Planning Commission without adhering to the CCR 15.6 Amendment requirements, it appears the Declarant is not fulfilling the fiduciary responsibility to act in the best interest of all Sahhali South owners.

We feel that both of the amendment requests 5 and 6, which are detailed on page 11 of the Sahhali South Replat Amendment Request document, are in violation of CCR 15.6. The sentence that is the most concerning is: "The Architectural Review Board may approve a proposal that does not comply with these setback requirements pursuant to CCR Section 11 Architectural Review Board". We feel this amendment request is too general and allows too much freedom to the Class B Member (the Declarant) in making decisions that could impact the overall value and integrity of Sahhali South. These requests may also be in violation of the Neskowin Rural Residential Zone (NeskRR) land use.

We are also concerned with the language change in CCR 10.3.1 on page 12 of the Amendment Request document. Currently our CCR states the following: "shall be maintained in full compliance with the zoning restrictions of Tillamook County". The amendment request asks that the language be changed from being compliant with Tillamook County zoning to "consistent with Applicable Criteria and the Sahhali South Planned Development decisions". We believe this request is not in the best interest of the Sahhali South minority owners and will jeopardize the consistent future development of Sahhali South and the value of our property.

In conclusion, we are concerned with the requests being made to change not only the replat of Sahhali South but to make amendments to the CCR. When we purchased our property, we believed the CCR was designed to protect both Class A and Class B Members. The amendments that are being presented lean strongly in favor of the Class B Member (the Declarant) and do not reflect responsibility to minority owners.

We appreciate your consideration,

Peter Sammons

Stephanie Sammons

Tillamook County Department of Community Development

1510-B Third Street

Tillamook, OR 97141

Re: Application 851-22-000003-PLNG

Submitted for acceptance is this written testimony of the Brenda Freshman, Trustee for Brenda Freshman Living Trust, owner of Lots 2 and 3, Sahhali South, with reference to the above Application. These comments are submitted to addresses Request 3,"Partition Tract A," and Request 5, "Adopt Consistent Setbacks, Amend CCRs Section 10.13, Addendum to Master Plan."

I also request the opportunity to present oral testimony at the hearings in February and April.

My current written comments to be forwarded to the Department of Community Development, and Planning Commissioners are as follows:

THE APPLICATION IS DEFICIENT/INCOMPLETE

The County Development Approval Procedures (LUO 10.020 (6)(v)) requires that applications "contain a detailed statement that demonstrates how the proposal meets all approval criteria . . ."

The Application's "detailed statement" as to approval criteria 4 (LUO SECTION t6.040) at page 22 states:

"The 2021 Amendment to Sahhali South Planned Development Subdivision does not alter the character of the surrounding area in any way that substantively limits, impairs, or prevents the use of surrounding properties for the permitted uses listed in the underlying zone. The 2021 Amendment to Sahhali South continues the development character of detached and attached single-family-dwellings with the Sahhali South 2005 and 2007 decisions."

I disagree with the applicants assessment as the proposed amendments would directly change the character of the landscape and the use of the property.

The statement in the Application is vacant of the detail required to address how the changes sought do "not alter the character of the surrounding area." The Application does not appear to conform to the LUO standards.

GOAL 3, PARTITION TRACT A

Tract A lies is open space at the entrance to both Sahhali South and Sahhali Shores. Applicant proposes to remove Tract A from 'open space', and divide and sell it as two lots. These lots have been designated as open space for the development since inception. Additionally these lots are the only common space which is relatively level, centrally located and accessible. The substitute property is NOT of the same quality or character. I take issue with the implication that taking Tract A from open space "will not alter the character which substantially limits, impairs or prevents the use of surrounding properties for permitted uses." Furthermore the application lacks detail that describes their assertions and positions.

GOAL 5, ADOPT CONSISTENT SET BACKS

CHANGE OF CCRs BY APPLICATION OF TILLAMOOK COUNTY LAND DEVELOPMENT ORDINANCE (LDO)

I do not think the provisions of the Tillamook County Land Development Ordinance can be applied to a change to the CCRs as set forth in Application Goal 5. The Land Development Ordinance prohibits changes to CCRs as part of that review process. Application p. 27, LDO Section 120 (3)(c).

Alteration: LUO REVIEW CRITERIA 6.040 (4)

The implications of a adjusting the distance between structures in a non-urban area. The proposed changes would have substantial impacts on the safety, and privacy of daily life as well change the character of the Development.

Thank you in to the staff and the Planning Commission for the opportunity to this testimony.

Sincerely,

Brenda Freshman

Address: 6715 Pacific Overlook Drive, Neskowin Oregon, 97149

Phone: 541-921-7593

Email: Brenda.Freshman@csulb.edu

Submitted by email February 13, 2021 addressed to mjenck@co.tillamook.or.us and ltone@co.tillamook.or.us.

February 10, 2022

Tillamook County Planning Commission 1510-B Third Street Tillamook, OR 97141

RE: Application 851-22-000003-PLNG

This letter is submitted as written testimony by Boyce Heidenreich and Brooke Heidenreich, owners of Lots 32, 33, and 34 in the Sahhali South Development. We request that it be included in the packet being prepared for the Planning Commission for its scheduled hearings on the above referenced application. We would like to address Application Request 3 (partitioning Tract A into Lots A-1 and A-2) and Application Request 5 (adopting consistent setbacks).

REQUEST 3, PARTITION OF TRACT A

This particular tract is on level, easily accessible land at the entrance to the Sahhali South development. To our knowledge it is the only open space in the development that could be used as a small neighborhood park.

We object to the Applicant's request that this tract be divided into two purchasable lots, A-1 and A-2, and that a very steep, inaccessible parcel of land be substituted as the community's open space. The Applicant's new open space would be located next to proposed Lots 13a and 13b. Not only would this eliminate any suitable, accessible space for a neighborhood park, but it is inconsistent with TCLUO Section 3.520(7) and Section 6.040(4) that state "the proposed use will not alter the character of the surrounding area in a manner which substantially limits, impairs or prevents the use of surrounding properties for the permitted uses listed in the underlying zone."

In addition, this violates our current Declaration of Covenants, Conditions and Restrictions of Sahhali South (CCRs). Section 6.4 of our CCRs, entitled "Owners' Easement of Enjoyment," states that "every Owner shall have a nonexclusive right and easement of enjoyment in and to the Common Property, which shall be appurtenant to and shall pass with the title to every Lot." This is simply not possible on the proposed steep, inaccessible land the Applicant is proposing as common property. In other words, it appears to us that Request 3 disregards the interests of current and future owners while focusing solely on the interests of the Applicant.

REQUEST 5, ADOPT CONSISTENT SETBACKS

We are not against the development of our community but we have assumed it would be done in ways consistent with our adopted and recorded CCRs. We have been well aware that we will have neighbors living next to our property but we were not expecting them to be 5 feet from us. The current setbacks,

as set forth in our CCRs are between 10-15 feet. Our objections to the proposed 5' setbacks are as follows:

- It is inconsistent with current setbacks for the homes in Sahhali South and the nature of the development. As such, it violates TCLUO 6.040, sections 3 and 4 as quoted above. Five foot setbacks and the potential of homes being built with only 10' between them significantly alters the character of the surrounding area.
- 2) It increases the risk of fire spreading rapidly to adjacent structures. Although we are fortunate to have a dedicated and skilled fire department serving our community, it is located in Hebo. Given the time it would take for firefighters to respond to fires in our development, decreasing setbacks and building homes within 10' of each other would substantially increase the likelihood of fires spreading rapidly to other structures. One of the provisions in Section 1.0202 of Article 1 of the TCLUO is "to aid in the provision of fire and police protection." Approval of the Applicant's request does not, in our opinion, ring true to this provision.
- Given the increased possible impact of fire with structures this close to each other, this
 proposal will detrimentally affect homeowners' insurance premiums.
- 4) In constructing new homes on lots with only a 5' setback on each side, how will it be possible to get heavy machinery and large construction vehicles and apparatus along the sides of lots? Where will excavated materials be placed? Where will building materials and supplies be unloaded and kept until used? We believe this could also "substantially limit, impair or prevent the use of surrounding properties" most specifically our Lot 32 along with any lot in the development that borders new construction.
- 5) This proposal is inconsistent with Section 3.320 of the Neskowin Rural Residential (NeskRR) Zone. In item 4 (k)(2) of this section it states that "Building width at all points shall not exceed 70% of the distance between opposite side lot lines (measured as close to perpendicular as possible)." Given that Lot 31 next to us is approximately 40' wide, that means a home could be only 28' wide. That results in 6' setbacks, not the 5' setbacks the Applicant is asking the Planning Commission to approve. While the difference may not be large, adhering to the NeskRR provisions is important to us.
- 6) This proposal, by being submitted to the Planning Commission for approval, is side-stepping our adopted CCRs and asking the County to be party to vacating the clearly defined process for changing our CCRs outlined in Section 15.6 of that document. Our reading of the County's Land Development Ordinance is that it prohibits changes to CCRs as part of the review process. Section 120(3)(c) states that limitations on replatting include that it does not act to "vacate any recorded covenants or restrictions." Approval of the Applicant's request would do just that.
- 7) The scope of the Applicant's request to change setbacks is not clear. While the Applicant is asking the Planning Commission to approve changes that will provide "consistent setback requirements throughout the development," his application is inconsistent in that it also states that the request "involves 13 vacant lots controlled entirely by the Declarant." Which is it? If the Applicant wants to change all setbacks, we believe Section 10.020(1)(a) of the

- TCLUO prohibits this. The Applicant cannot ask for changes to setbacks for property he does not own. We believe he has no jurisdiction to modify the setbacks on our Lots 32 and 33.
- 8) Not only is the Applicant ignoring the duly recorded CCRs of our community, but he initiated the request to have the Planning Commission approve a change to the setbacks with no prior notice to current owners. In fact, we were told about the proposed new 5' setbacks by prospective buyers who said that the County would be approving them within the next two months. In other words, real estate agents and prospective buyers have known about this long before property owners found out about it from the County's January 26, 2022, notice. While this may not violate any rules or procedures, it is a disheartening way for owners to be treated.

We appreciate the opportunity to present this written testimony to the Planning Commission and thank the members of the commission for your consideration of our views. We also would like to thank County staff, particularly Melissa Jencks, for her amazingly prompt replies to our questions and requests.

Sincerely,

Boyce and Brooke Heidenreich