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CITY COUNCIL FOR THE CITY OF SULTAN

In Re: GREENS ESTATES PUD AND  
PRELIMINARY PLAT APPLICATION

FPPUD05-001

SULTAN 144 LLC'S COMMENTS FOR  
CLOSED RECORD APPEAL

**I. BACKGROUND**

This Memorandum addresses four issues raised by the Examiner in his September 19, 2007 recommendation on the Applicant's ("Sultan 144's") Greens Estates 63-lot single-family planned unit development ("PRD"). The issues were: 1) a construction of full-width improvements in a reduced right-of-way dedication on some streets within the PUD ("sidewalk easements"); 2) the use of flag lot access driveways; 3) compliance with Sultan Municipal Code ("SMC") 16.10.110(B)(2)(d)'s "proximity to transit" requirement; and 4) clarification on the extent of allowed development within an unused Puget Sound Electric ("PSE") utility easement that crosses the site.

Sultan 144 strongly believes that principles of fairness and consistent application of the City's regulations dictate approval of the proposed PUD. In his recommendation, the Examiner acknowledges applying an arbitrary standard on the proximity to transit issue, that differs from

Applicant's Comments for Closed Record Appeal- 1

**FOSTER PEPPER PLLC**  
1111 THIRD AVENUE, SUITE 3400  
SEATTLE, WASHINGTON 98101-3299  
206-447-4400

1 the one-mile distance that the Council previously approved for the Skoglund Estates PUD  
2 development, which abuts the Greens Estates PUD.<sup>1</sup> An aerial photo showing the locations of  
3 the Greens and Skoglund projects is attached at the conclusion of this Memorandum before  
4 Exhibit 1. Similarly, Staff supported and Council approved the flag lot and sidewalk easements  
5 as part of the Skoglund PUD development, and Staff supported the concepts in the Greens Staff  
6 Report and before the Hearing Examiner.

## 7 II. ANALYSIS

### 8 *1. The PUD Process Involved Extensive Negotiation Between Sultan 144 and the 9 City.*

10 The Examiner erroneously assumes that the use of the flag-lot driveways and right-of-  
11 way reduction in the Greens Estates development were to increase lot yield. In fact, Sultan 144  
12 had significantly reduced the number of lots at the direction of City Staff, who told Sultan 144  
13 that the City Council and the community preferred larger lots.

14 The Greens Estates project was analyzed by City Staff under the pre-2006 version of  
15 Sultan Municipal Code Ch. 16.10 as a PUD-SF. The City's PUD-SF regulations are an  
16 alternative to conventional land use regulations that allow a project to be specifically tailored to  
17 a particular site by combining use, density and site plan considerations into a single process.  
18 SMC 16.10.010.

19 The PUD-SF zoning review process for the Greens Estates project involved significant  
20 interaction with City Staff, including the City Planning Director and City Engineer, to create a  
21 site-specific development proposal that complied with the City's comprehensive plan and PUD-  
22 SF regulations. These regulations are specifically intended to allow flexibility in site design  
23 with respect to spacing, heights and setbacks of buildings, densities, critical areas, open space,  
24 parking, accessory uses, landscaping, and circulation elements, including "smaller utility and

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25 <sup>1</sup> In his Recommendation, the Examiner candidly acknowledges that he is shooting in the dark with his  
26 interpretation—noting that he "did his best" but that "the SMC needs measurable standards to determine  
compliance with the criteria." Order p. 3. The Examiner concluded that he "sincerely hopes that the Council will  
establish a quantifiable measure by which compliance with SMC 16.10.110(B)(2)(d) may be determined. . . ."

1 circulation networks.” SMC 16.10.010(B). The goal of PUD zoning flexibility is to create  
2 superior development that accounts for on-site critical areas and natural features and provides a  
3 high level of amenities. SMC 16.10.010(D). The discussion with the City was also framed by  
4 the approvals that the City had previously provided for the neighboring Skoglund Estates PUD.  
5 See Exhibits 3A and 3B for a comparison of the Skoglund and Greens site plans.

6 **2. *During the PRD Process Sultan 144 Voluntarily Agreed To Significantly***  
7 ***Reduce the Number of Lots in the Development.***

8 Sultan 144 purchased the development rights to the Greens property from another  
9 developer. That developer had proposed a 106-lot development. Exhibit 6 depicts the original  
10 106-lot submittal overlaid on the current 63-lot layout. As shown in Exhibit 7, the allowed  
11 density of Greens Estates after a wetland area was deeded to the City was 90 units. Through the  
12 negotiations with City staff, Sultan 144 agreed to reduce the lot count by over 40% from the  
13 original submittal (and 30% from the allowed lot count following dedication of the wetland  
14 area) because Sultan 144 was told that both the City Council and residents of Sultan preferred  
15 larger lots.

16 In order to create the larger lots that the City was requesting, Sultan 144 used the flag lot  
17 and sidewalk easement concepts that both the City Staff and City Council had previously  
18 approved for the Skoglund Estates development. Thus, Sultan 144 was meeting the City’s  
19 expressed desire for larger lots with the same design techniques that the City had already  
20 approved for a neighboring development.

21 **3. *The Greens Estates Development Provides Significant Amenities.***

22 The purpose of the PUD regulations is to provide a development with superior  
23 amenities. Here, the Greens Estates development does so by providing over 10.1 acres of open  
24 space, which is over 50% more open space than the 4.32 acres that would be required under the  
25 City’s code. The 10.1 acres of open space represents over 46.87% of the site. In addition,  
26

1 Sultan 144 dedicated 3.49 acres of critical area wetland habitat to the City for use as passive  
2 recreation open space and a possible future wetland mitigation area.

3 The Greens Estates development also includes the construction of 1,110 lineal feet of  
4 frontage improvements on Sultan Basin Road and 132<sup>nd</sup> Street SE, which completes a very  
5 important section of road improvements along Sultan Basin Road and which is significantly  
6 more frontage improvement than that provided by other approved PUDs:

- 7 ○ Greens Estates (63 units)-1,110 LF
- 8 ○ Skoglund Estates (48 units) – 470 LF
- 9 ○ Timber Ridge (85 units) – 975 LF
- Sky Harbor Estates (62 units) – 350 LF
- Hammer Property (75 units) – 350 LF

10  
11 The Greens Estates development will also provide a bus turn out/turn around on Sultan  
12 Basin Road; create road connectivity by providing three connections to existing roads and two  
13 future connections; and will provide pedestrian trail connectivity that will help complete the  
14 pedestrian trail along Sultan Basin Road between SR-2 and 132<sup>nd</sup> Street SE. See Exhibit 2,  
15 showing bus stop, frontage improvements, and pedestrian trail.

16 **4. Full Street Improvements In Reduced Right-of-Way and Flag Lots.**

17 As stated previously, the Greens Estates site plan was the product of extensive  
18 negotiation with City Staff. In order to cluster the development in a manner that allowed  
19 provision of the above-listed amenities and to provide larger lots, Sultan 144 requested, and  
20 both the City Planning Director and City Engineer approved, two deviations from the City's  
21 standard regulations, which are allowed under SMC 16.10.010's flexible design standards.  
22 These deviations are:

23 **a. Full Street Improvements In Reduced Rights-of-Way.** The City of  
24 Sultan standard road section calls for a 60 foot right-of-way, with two 12-foot travel lanes, two  
25 8-foot parking lanes, curb, gutter, 5-foot sidewalks on each side, and street trees planted every  
26

1 20 lineal feet within a 3-foot planter strip. SMC 16.10.120(B) authorizes the City Planning  
2 Director and City Engineer to modify these street standards through the PUD process.

3 The Greens Estates site plan calls for keeping the six internal roads (Roads A-F)  
4 the same as the City standard with two 12-foot travel lanes, two 8-foot parking lanes<sup>2</sup>, a 3-foot  
5 planter strip and 5-foot sidewalks, but reducing the overall right-of-way by 10 feet down to 50  
6 feet.

7 To accommodate the full-width improvements in a smaller right-of-way, Sultan 144  
8 proposed placing a portion of the sidewalks in an easement. One of the primary reasons for the  
9 requested right-of-way reduction is to preserve open-space along the PSE easement. In  
10 addition, the right-of-way reduction was negotiated with Staff in lieu of permitting a narrower  
11 32-foot road pavement section that had been proposed by Sultan 144. The approved plan  
12 retains the City's standard 40-foot road section.<sup>3</sup>

13 The Hearing Examiner addressed the right-of-way reduction in Conclusion 8 on page 19  
14 of his Recommendation:

15 8. *Right-of-way width reduction in a PUD is available where separation of*  
16 *vehicular and pedestrian traffic is proposed and where adequate off-street*  
17 *parking is provided [SMC 16.10.120(B)(4)(b)]. Here, the right-of-way width*  
18 *reduction is not coupled with reduced street sections or off-street parking areas,*  
19 *but rather is offset by a sidewalk easement on each side of the street. What is*  
20 *actually happening, is that Sultan 144 is proposing to construct standard width*  
21 *streets and sidewalks within rights-of-way which are too narrow to contain them.*  
22 *The "left over" parts of the sidewalk are then placed within easements*  
23 *encumbering the front five feet of each frontage lot. The end result is an*  
24 *increased lot yield: With the typical lot in Greens Estates being 50-feet wide, the*  
25 *sidewalk easement design saves the Applicant about 250-square feet for every lot*  
26 *which fronts directly on a street. Those savings equal more than two lots.*

*This concept does not seem to be what SMC 16.10.120(B)(4)(b) is all about. The*  
*Hearing Examiner asks the Council to carefully consider this issue and include*  
*within its action a ruling on acceptability of the concept and guidance for its*

<sup>2</sup> Roads D and E are planned with one 8-foot parking lane.

<sup>3</sup> The City's requirement of a 60-foot right-of-way is significantly more than many comparable jurisdictions, which typically require a 50-foot right-of-way and 28-foot pavement width. In contrast, Sultan's standards call for a 60-foot right-of-way and 40-foot pavement width. See Exhibit 5.

1 *future application. If it is approved here, it will likely reappear in many future*  
2 *applications because of its ability to increase lot yield with no other apparent*  
3 *public benefit or private cost.*

4 Contrary to the Examiner's erroneous assumption, the purpose of the requested sidewalk  
5 easement was not to increase lot yield. As discussed previously, Sultan 144 reduced the number  
6 of proposed lots from 109 to 63 and significantly increased the size of the individual lots. The  
7 reduced right-of-way arose out of negotiations with Staff on street pavement width and as a  
8 means of preserving open space.

9 Exhibit 1 provides a comparison of the proposed road section verses the standard road  
10 section. The road width, sidewalks and planter strips are all exactly the same as the City  
11 standard in both scenarios. The only deviation is the reduced width of the right-of-way, which  
12 requires that portions of the sidewalks are located within easements. Once constructed, the  
13 ownership and maintenance of the roads will be the same as that of any other public road within  
14 the City.

15 The Examiner's Recommendation questioned whether approval of the reduced right-of-  
16 way would establish an undesirable precedent for future projects. The Examiner also  
17 questioned whether there would be sufficient driveway length between the garage and the street  
18 to ensure that parked cars would not extend over the sidewalk.

19 SMC 16.10.010 calls for a holistic, project-specific review to determine the conditions  
20 that will apply to a particular project. Under the PUD Code provisions, the City retains  
21 discretion to determine whether "smaller . . . circulation networks" are appropriate in a  
22 particular instance. 16.10.010 (B). Moreover, the City Council previously approved similar  
23 reduced rights-of-way for the Skoglund Estates project, so the current request is not setting a  
24 new precedent. Finally, since the Greens project is one of the last PUDs to be approved under  
25 the pre-2006 version of the City's PUD ordinance, it does not create any precedent for projects  
26 that will be evaluated under the current version of the Code.

1 To ensure that there is sufficient space between the garages and the sidewalks to allow  
2 parking of a full-sized vehicle, Sultan 144 is willing to agree to a condition that would condition  
3 the preliminary plat approval by requiring that the project's covenants, conditions, and  
4 restrictions ("CC&Rs") include a provision that any garages would be setback at least 20 feet  
5 from the back edge of the sidewalks.

6 Approval of the sidewalk easements supports the concepts of fundamental fairness and  
7 consistent application of the City's land use regulations.

8 On June 29, 2007, the City Council approved the Skoglund Estates preliminary plat in  
9 Resolution 06-09, which contained a similar provision for reduced rights-of-way. Exhibit 3A  
10 depicts the areas within the approved Skoglund plat that contain sidewalks within easements,  
11 and Exhibit 4 is the excerpt from the Skoglund Staff Report that discusses the reduced width  
12 rights-of-way<sup>4</sup>.

13 *For the Skoglund project, Sultan 144 requested that the City Engineer and City*  
14 *Planning Director allow a reduced road section of 32-foot with the standard*  
15 *sidewalks and planter strips. This road section would allow parking on one side*  
16 *and two 12' travel lanes. As shown on Exhibit 5, many jurisdictions allow 32-*  
17 *foot paved road sections. City staff was reluctant to approve the reduced*  
18 *pavement width and, as an alternative, the parties negotiated the ROW*  
19 *reduction.*

20 Thus, the reduced right-of-way concept has been previously approved by both City Staff  
21 and the Council, and, in fact, the Greens project connects to a 50-foot right-of-way within the  
22 Skoglund project that is the exact road section proposed on the Greens project.

23 City Staff continued to support the sidewalk easement concept at the open-record  
24 hearing on the Greens PUD. In the September 11, 2007 Staff Report, recommending approval  
25 of the Greens Estates preliminary plat, the City Engineer and City Planning Director supported  
26 the request for reduced width rights-of-way as follows:

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<sup>4</sup> For example, in his January 25, 2005 preliminary plan review, the City Engineer noted that the sidewalk/easement proposal met current planning see Exhibit 11.

1 Street Standards (Section V Traffic and Circulation Page 8)

2 *Internal Public Roads*

3 *The Sultan Design Standards and Specifications require, for public local access*  
4 *streets, a 60 foot right-of-way, with two 12 foot travel lanes, parking lanes on*  
5 *each side, curb, gutter, 5 foot sidewalks on each side, and street trees planted*  
6 *every 20 lineal feet.*

7 *As submitted, Roads A-F as proposed will provide 50 foot right-of-ways, two 12*  
8 *foot travel lanes, 5 foot sidewalks on both sides, and two 8 foot parking lanes.*  
9 *The exception to this is Road D and F, which will have parking lanes on only one*  
10 *side of the road. Final plans will show the street trees meeting the 20 lineal feet*  
11 *requirement, or as accepted by the Community Development Director and City*  
12 *Engineer.*

13 Per SMC 16.10.120(B), the City Planner and City Engineer may allow modifications to  
14 the street standards through the PUD process. SMC 16.10.120(B)(4)(a) and (b) allows for  
15 variations to the road standards for PUD projects as follows:

16 SMC 16.10.120(B)(4)(a) and (b)

17 a. *Standards of design and construction for roadways within*  
18 *residential PUDs may be modified as is deemed appropriate by the planning*  
19 *director and city engineer with the concurrence of the city council, following a*  
20 *recommendation by the Hearing Examiner.*

21 b. *Right-of-way width and street roadway widths may also be*  
22 *reduced, especially where it is found that the plan for PUD provides for the*  
23 *separation of vehicular and pedestrian circulation patterns and provides for*  
24 *adequate off-street parking facilities.* (Emphasis added).

25 Thus, the PUD permitting process specifically allows variations to the standard road  
26 section including the rights-of-way reduction that was approved for both the Skoglund and  
Greens PUDs.

The following suggested revised conditions of approval address the rights-of-way and  
easement issues, and Sultan 144 requests that they be adopted by the Council:

Condition 5 (d) (Proposed Revised Condition

*Garages whose vehicular door(s) face a street with reduced right-of-way and a*  
*sidewalk easement must maintain a 20-foot setback between the back edge of the*  
*sidewalk and the near face of the garage.*

1 Condition 12 (Proposed Revised Condition)

2 Roads A, B, C and E will provide the standard City of Sultan Road Section within  
3 a reduced right-of-way (50 feet instead of 60 feet) and will place the required  
4 sidewalks within easement on private property. Roads D and F, as shown on the  
5 preliminary plans, are permitted to deviate from the design standards. Roads D  
6 and F have a reduced right-of-way width (50 feet instead of 60 feet) and have  
7 eliminated one (1) parking lane. Sidewalks will be within the right-of-way for  
8 Roads D and F.

9  
10 **b. Panhandle Lot Access Driveways.** The City Code requires that lot  
11 frontage be at least 20 feet in width where the lot abuts the public road. 12 of the 63 lots in  
12 Greens Estates are “flag” or “panhandle lots” that have drives that extend beyond the primary  
13 building area. The proposed driveways for these lots are contained within lot lines that are  
14 20 feet wide at the road frontage but then taper to 15 feet as they move back toward the garage.  
15 This configuration allows for sufficient space at the driveway/road intersection to accommodate  
16 utilities and refuse cans while also increasing the usable property for the lots on either side of  
17 the driveway. The increased lot size was also consistent with City’s expressed preference for  
18 4,500 square-foot or larger lots.

19 The Hearing Examiner addressed panhandle lots in Conclusion 11 on page 20 of his  
20 Recommendation as follows:

21 11. *The evidence shows that appropriate provisions have been made for most  
22 all the items listed in SMC 16.28.330(A)(2), including transit stops. The  
23 Examiner nevertheless has doubts about the wisdom of the flared panhandles  
24 and the reduced width rights-of-way.*

25 *The SMC requires that every lot abut a street by not less than 20 feet. [SMC  
26 16.150.010(3)] Sultan 144 has met that requirement for its panhandle lots by  
flaring a 15 foot wide panhandle out to 20 feet where it touches the right-of-way.  
(Exhibit 4Y) In other words, the panhandle is 20 feet wide only at the precise  
point of intersection with the street; the side lot lines abutting the panhandle  
have a “jog” or “dog leg” in them. This is a new concept to this Examiner. The  
concept is another way to increase yield: A typical 20 foot wide panhandle is  
reduced to 15 feet for most of its length. Given that most of the panhandles are  
about 75 feet long, the design “saves” about 350 feet for every panhandle. The  
30+(Should Read 12) panhandles in the plat “save” the equivalent of about two  
lots.*

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*A further question is whether the “jog” or “dog leg” in the lot lines will serve the public use and interest. Most people, rightly or wrongly, expect their property lines to be straight line segments. Since the driveways in these panhandles will likely not be flared to match the property lines, abutting owners may well believe that their property lines run straight to the street. Property line disputes could result and/or the panhandles could end up to be effectively only 15 feet wide all the way to the street. The Examiner asks the Council to carefully consider this issue and include within its action a ruling on acceptability of the concept and guidance for its future application: If it is approved here, it will likely reappear in many future applications because of its ability to increase lot yield with no other apparent public benefit or private cost.*

Again, the Examiner mistakenly assumes that the panhandle concept is to increase lot yield. The panhandle lots that are proposed for 12 of the 63 lots in the Greens project, are the exact layout concept used on the Skoglund Estates project previously approved by Staff and the City Council. The panhandle lots also meet the requirements of the Sultan Municipal Code section SMC 16.150.010(3) since they provide the 20 feet of frontage where the lot abuts the public street.

SMC 16.150.010 (3) provides:

3. “Access” means a means of vehicular ingress and egress to a lot or parcel. For the purposes of this code a lot shall abut by no less than 20 feet upon and have direct access to: (A) an opened, constructed and maintained public Road; or (B) a private road in plat or short plat approved by the city of Sultan; or (C) an exclusive, unshared, unobstructed permanent easement at least 20 feet wide.

SMC 16.150.010(3) is silent on whether the 20-foot frontage requirement must be maintained on the portion of a lot that is not immediately abutting the road. In such situations, the ordinance must be interpreted in favor of the property owner. The Washington Supreme Court recently reaffirmed this conclusion in *Sleasman v. City of Lacey*, 159 Wn.2d 639, 151 P.3d 990 (2007) (note 4, emphasis added):

It must also be remembered that zoning ordinances are in derogation of the common-law right of an owner to use private property so as to realize its highest utility. Such ordinances ***must be strictly construed in favor of property owners and should not be extended by implication to cases not clearly within their scope and purpose.***

1 Again, this is also an issue of fundamental fairness and consistent interpretation of the  
2 City's regulations. Panhandle lots with tapered driveways were proposed and approved as part  
3 of the neighboring Skoglund Estates development for lots 13, 17, 24, 36, and 43, as shown on  
4 the attached Exhibit 2. The concept was also supported by City Staff for the Greens project at  
5 the open-record hearing and in the September 11, 2007 Staff Report, which provides:

6 c. Lot Size and Coverage (Section II Land Use Zoning Page 5)

7 *The Applicant proposes lot sizes that range from 4,656 sf to 10,415 sf, with an*  
8 *average lot size of 5,770 sf. The maximum lot coverage under SMC 16.12.010 is*  
9 *30% for PUD's. At the time of building permit submittal, the Applicant will be*  
10 *required to show compliance with this section of the code. The proposed*  
11 *minimum lot widths range from 40 feet to 78 feet; panhandle lots have a lot*  
12 *width of 20 feet at the lot line. The above lot sizes, widths, and coverages comply*  
13 *with SMC 16.12.010 and SMC 16.10.120.*

14 In order to give an idea of how the panhandle lots will look at final build out, Sultan 144  
15 has provided Exhibit 8 to show representative panhandle lots that were permitted in other  
16 jurisdictions and that flare from 15 feet to the 20 feet in width. The taper will not be an issue  
17 with property owners. The location of the flare is close to the right-of-way where fences are  
18 generally not located and is typically utilized as a landscape area. As shown in Exhibit 8, the  
19 15-foot panhandle access allows for the City minimum required 10-foot driveway with  
20 landscaping for screening on either side.

21 The proposed panhandle driveways are consistent with the City's Design Standards and  
22 Specification Amended February 24, 2005 Section 4.04 Driveways item 6 which requires  
23 residential driveways to have a minimum width of 10 feet and a maximum width of 20 feet.  
24 More importantly, the Snohomish County Fire Marshal has confirmed that the flared panhandle  
25 lot design will not impede emergency vehicle access. See correspondence attached as  
26 Exhibit 12.

The panhandle lot design was developed with the support of the City Staff in order to  
maintain the density of the project with the site constraints. As stated previously, the allowed  
density for this site is 90 units. Sultan is only proposing 63 units to accommodate critical areas

1 and other site constraints and requirements imposed by the City. This project was vested prior  
2 to the lot size requirements that were subsequently implemented for PUD projects. Thus,  
3 smaller lots could have been proposed to maintain or even increase density, but Staff requested  
4 larger lot sizes. The panhandle lots were specifically approved by both Staff and Council for  
5 the Skoglund Estates project and were supported by Staff in the Staff Report and hearing on the  
6 Greens Estates project. It would be unfair and inequitable for the City to change its  
7 interpretation of its PUD regulations at this late date, particularly given its prior consistent  
8 interpretation that Sultan 144 relied upon in designing the Greens project.

9 **5. *The Greens Estates Development Meets The PUD “Proximity to Transit”***  
10 ***Requirement.***

11 Sultan 144’s position on the “proximity to transit” requirement is more fully set forth in  
12 Sultan 144’s October 12, 2007 appeal of the Hearing Examiner’s recommendation for the  
13 Greens Estates PUD. In short, the Examiner erred in arbitrarily picking a 3/5ths of a mile cutoff  
14 for determining a PUDs’ proximity to transit.

15 The Examiner’s decision that the Greens Estates project did not have “sufficient  
16 proximity” to “facilitate transit access” was based on a finding that the site was more than a  
17 mile from the nearest transit stop on SR 2. HE Decision Finding 10(D); Conclusions 4-7.

18 Based on GIS measurement, the Greens Estates is located 0.992 miles from the SR2  
19 Park-n-Ride. This distance is virtually identical to the distance between the Skoglund Estates  
20 project and the SR-2 Park-n-Ride, which is 0.994 miles as determined by a GIS measurement.

21 The Examiner had no rationale basis for denying the Greens Estates project for  
22 noncompliance with SMC 16.10.110(B)(2)(d), given that the distance to transit is actually  
23 slightly less than that for the Skoglund Estates project, which was approved by the Council as  
24 being sufficiently proximate to transit.

25 In short, the Examiner should have followed the Council’s previous interpretation of  
26 SMC 16.10.110(B)(2)(d) and treat like-situated projects similarly. *Castle Homes and*

1 *Development, Inc. v. City of Brier*, 76 Wn.App. 95, 882 P.2d 1172 (1994) (Hearing Examiner  
2 erred in disregarding Council's mandate).

3 In approving Skoglund Estates, the Council found that the proximity requirement was  
4 met:

5 18. Community Transit Routes 270, 271, and 271 [*sic*] service the Sultan Park &  
6 Ride on Use 2 east of 10<sup>th</sup> Street approximately 1.0 mile from the site. Service is  
7 provided through the City and to and from Everett via Snohomish and Monroe.  
8 ***Development of the type herein will facilitate and increase the prospect of a  
direct route along Sultan Basin Road. The Council finds that the site is in  
sufficient proximity in light of these facts to be approved as a PUD.*** (Emphasis  
added).

9 In approving the Skoglund Estates project, the Council endorsed single family PUDs at a  
10 distance of 1 mile from the SR-2 bus stop. The same rationale that was the basis for the  
11 Skoglund Estates approval must be applied to the Greens Estates PUD.

12 With all due respect to the Examiner, the Examiner's "good conscience"<sup>5</sup> or opinion on  
13 the distance that a majority of Americans are likely to walk<sup>6</sup> are not legal standards that warrant  
14 deviation from the Council's prior interpretation of SMC 16.10.100(B)(2)(d). Moreover, given  
15 that the ordinance must be construed in favor of the property owner, the Examiner is not entitled  
16 to impose a three-fifth's mile requirement on PUDs when none is found in the Code. *See* HE  
17 Decision, p. 9 (quoting Vodnick Lane Decision that a site three-fifths of a mile from transit  
18 "minimally meets the "sufficient proximity" . . . test.")

19 **6. *The PSE Easement Allows the Proposed Improvements.***

20 The Greens Estates property includes a large Puget Sound Energy transmission line  
21 easement that is currently unused. At the open-record hearing, the Hearing Examiner requested  
22 additional information to ensure that the proposed development layout took proper account of  
23 the utility easement.

24  
25  
26 <sup>5</sup> HE Decision Conclusion 7.

<sup>6</sup> HE Decision Finding 5.

1 Sultan 144 has received and executed a Consent for Use of the PSE Easement outlining  
2 the guidelines for the development within the easement as well as demonstrating agreement on  
3 the location of the easement. Moreover, the Examiner erroneously concluded that the PSE  
4 easement had not been located on the property. To the contrary, the easement has been located,  
5 it has been accurately depicted on the plans, and PSE has expressly agreed to allow proposed  
6 recreational equipment to be located within the easement.

7 Sultan 144 worked closely with PSE regarding the location of the easement, as well as  
8 the allowed uses within the easement. The result of this coordination was a Consent for Use  
9 document that was created for the Greens Estates project dated December 12, 2007 and  
10 executed by Sultan 144, LLC on December 13, 2007 (attached as Exhibit 9). This document  
11 was provided by PSE and outlines the conditions of the use for the PSE easement. It also  
12 confirms that the easement as shown on the Greens Preliminary PUD and Plat is, in fact, in the  
13 correct location. The letter references a survey "PSE Right-of-Way Exhibit for Sultan 144,  
14 LLC" produced by Concept Engineering that is attached as Exhibit 10. On February 13, 2008,  
15 PSE representative Faye Ryan provided Sultan 144's engineers with a confirming e-mail (copy  
16 attached as Exhibit 13) that confirms that PSE will allow the placement of recreation equipment  
17 within the easement.

18 In order to comply with the Consent to Use, a few minor changes were made to the  
19 preliminary Plat/PUD plans and submitted to PSE (attached as Exhibit 11). The PSE-requested  
20 changes do not change the location of the tract or lot lines or required the modification of any  
21 proposed roads. Once the Consent for Use is executed by PSE it will be recorded with the  
22 County Auditor. Since these conditions are recorded as an encumbrance against the property, it  
23 is not necessary to incorporate the PSE conditions into the PUD approval. Thus, Sultan 144  
24 recommends the following condition of approval to address the easement issue.

1 Condition 33 Proposed:

2 The project shall comply with the Consent for Use of Puget Sound Energy, Inc.  
3 Transmission Line Easement executed by Sultan 144, LLC on December 13,  
4 2007, and the Consent shall be recorded prior to approval of the final plat.

### 5 III. CONCLUSION

6 The Greens Estates project complies with the City's PUD regulations. The sidewalk  
7 easements and flag lots were previously approved for the Skoglund project and were appropriate  
8 exercise of the City Planning Director's and City's Engineer's discretion under the PUD Code.  
9 The Greens project provides significant public amenities including open space and public  
10 infrastructure. Sultan 144 agreed to the reduced number of lots and increased lot sizes at the  
11 specific request of the City. The City staff supported the sidewalk easements and flag lots in the  
12 Staff Report and at the Greens PUD hearing. It would be unfair and arbitrary for the City  
13 Council to deviate from the City's prior consistent interpretation of its land use regulations at  
14 this late date. Moreover, to Sultan 144's knowledge, Greens Estate is the last PUD vested to the  
15 pre-2006 version of the City's PUD regulations—and thus, interpretations made under that  
16 Code are not precedent for future projects, particularly given the City's discretion and the site-  
17 specific nature of the PUD regulations.

18 The Examiner clearly erred when he recommended denial of the Greens Estates project  
19 for failure to meet the Code's "proximity to transit" requirement. The Examiner's  
20 recommendation is contrary to the Council's approval of the Skoglund PUD at a 1-mile distance  
21 from the SR-2 transit facility and is based on an arbitrary standard 3/5<sup>th</sup> mile standard that is not  
22 found in the City's Code.

23 For these reasons, Sultan 144 respectfully requests that the Council reject the  
24 Examiner's recommendation, find that the Greens Estates project is compliant with PUD  
25 regulations, and approve the development as proposed.  
26

1 Respectfully submitted this 21<sup>st</sup> day of February 2008.

2  
3 FOSTER PEPPER PLLC

4 

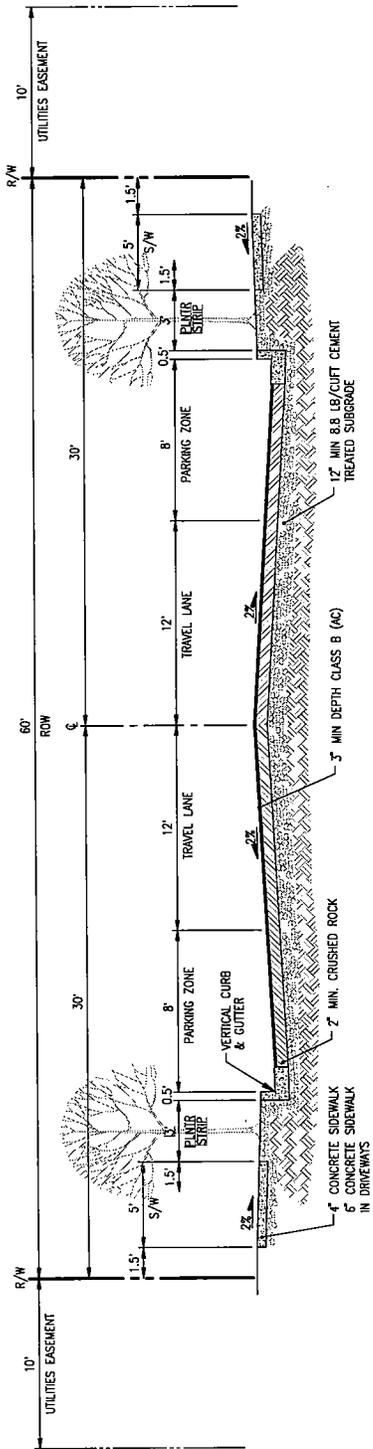
5 Patrick J. Mullane, WSBA No. 21982  
6 Attorney for Applicant Sultan 144 LLC

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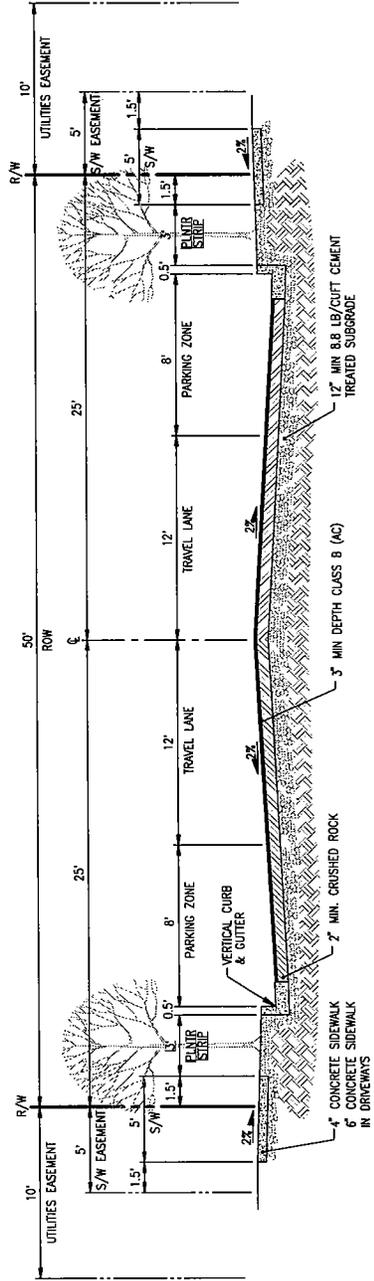
**AERIAL PHOTO**



# **EXHIBIT 1**



**CITY STANDARD 40' PAVEMENT SECTION**  
NOT TO SCALE



**PROPOSED TYPICAL 40' PAVEMENT SECTION**  
NOT TO SCALE

SULTAN 144, LLC  
GREENS ESTATES  
ROAD SECTIONS



Land Development Consultants, Inc.  
Planning • Civil Engineering • Project Management  
10000 West 16th Street, Suite 100  
Denver, Colorado 80202  
Phone: (303) 751-1888 Fax: (303) 751-1888  
ISSUE DATE: 12-15-07

# **EXHIBIT 2**



# **EXHIBIT 3**





# **EXHIBIT 4**

#### Sanitary Sewer Availability

According to PUD 16.10.070(7) new developments must show evidence of Sewer Availability. The City of Sultan Public Works Department has issued a letter stating sewer availability to the site on August 30, 2005. This letter states that the Developer/Owner of the site may need to build improvements to the City's Sewer System in order to provide sewer service to the site. Connections to the system must be made within one (1) year of notice.

#### Storm Water Management

According to the Preliminary Storm Water Report dated October 3, 2005 and prepared by LDC, there are currently two drainage basins on the project site. Basin A's overland sheet flow drains southeast towards the existing pond. The second basin flows south to a wetland that is almost entirely off-site. The site is currently partially wooded and overgrown pasture areas. The total amount of developed area will be approximately 16.52 acres. The developed site will include roadways, 48 residential lots, sidewalks, open space, and landscaping. The developed site's storm water will be conveyed through a catch basin and storm pipe network through two independent bio-swales for water quality. It will then discharge into the existing pond located in the southeastern portion of the site for Basin A. The existing dam for the pond will be built-up to provide adequate free board. Approximately 29% of the site will contain impervious surfaces, according to the Applicant's Environmental Checklist.

### **IV. Traffic and Circulation**

#### Lot Access

Access to the 48-single-family detached residential units will primarily be from an internal road system which would be accessed from 132<sup>nd</sup> Street S.E., with additional circulation that will be added when adjoining properties to the east and west develop.

#### Street Standards

Main access drives will have a grade of <1.5% and are proposed to be 40-feet wide. The Applicant proposes an internal right-of-way width of 50-feet, with each 25-foot half including the following: a 5-foot easement (to include a sidewalk); 5-foot area to include a 3-foot planting strip; 8-foot on-street parking zone (one side only except on Road A, from 132<sup>nd</sup> Street S.E. to Road C), and 12-foot travel lanes. The Applicant proposes a street design with vertical curb and gutters. In accordance with SMC 16.10.120(B)(4), street design standards may be modified for PUDs as approved by the Director of Community Development and City Engineer. However, intersections should be designed consistent with applicable engineering, including radii based on expected speeds. Final street design will require approval by the City Engineer prior to construction.

Street improvements are required by the Sultan Design Standards and SMC 16.10.120(B)(4) which specifically states that new developments shall provide multiple access points. Additionally, the SMC 16.10.110(B) requires the PUD design to take into account its relationship to surrounding areas and improvements to 132<sup>nd</sup> Street S.E. will help the PUD maintain compatibility with the surrounding area.

# **EXHIBIT 5**

**Residential Road Standard Comparison**

<b>Jurisdiction</b>	<b>ROW Width</b>	<b>Pvmt. Width</b>	<b>Road Classification</b>	<b>Capacity</b>
Marysville	50'	28'	Local Access	100 units
Snohomish	50'	28'	Local Access "A"	40 units
Snohomish	50'	32'	Local Access "B"	100 units
Lake Stevens	50'	28'	Neighborhood Access	
Gig Harbor	52'	30'	Major Local Residential	
Gig Harbor	44'	22'	Minor Local Residential	
Everett	50'	28'	Local Access "A"	40 units
Everett	50'	32'	Local Access "B"	100 units
Shoreline	45'	24'	Local Access	100-399 ADT
Shoreline	50'	28'	Collector	400-4,000 ADT
Bothell	50'	28'	Local Access	100 units
Sno. Co.	51'	28'	Residential Street	1-1,000 ADT
King County	40'	24'	Subaccess	50 units
King County	48'	28'	Subcollector	100 units
<b>Greens Estates</b>	<b>50'</b>	<b>40'</b>	<b>Residential Street</b>	
<b>City of Sultan</b>	<b>60'</b>	<b>40'</b>	<b>Residential Street</b>	

Exh. 5

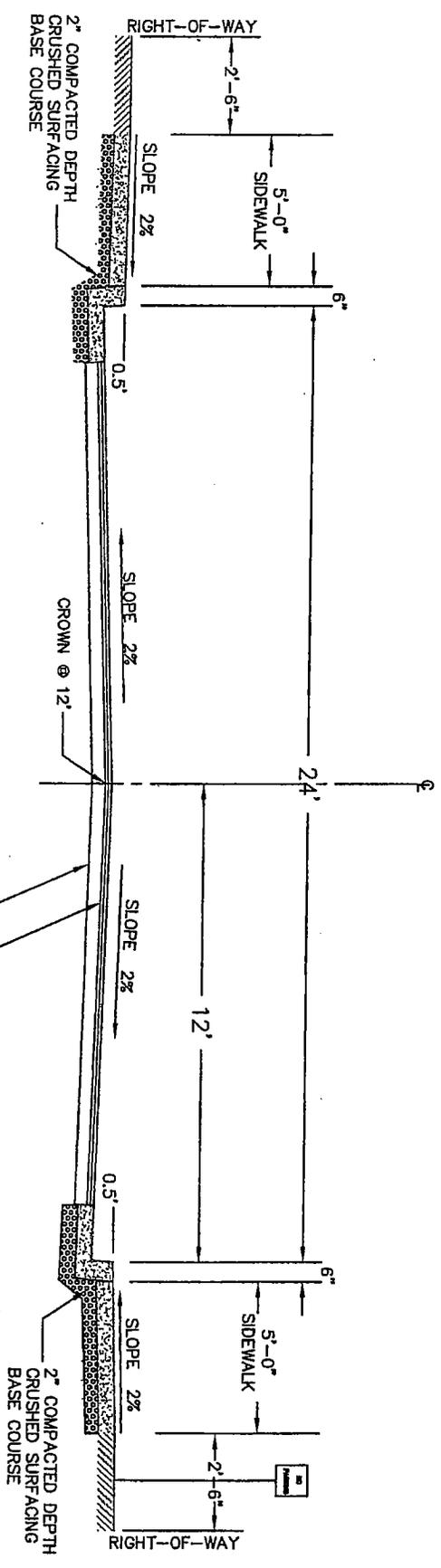
### 3-202 Residential Access Streets

Serving single-family development, see Standard Plans No. 3-202-001, and 3-202-004. For multiple dwelling developments, see section 3-203.

CLASSIFICATION	NEIGHBORHOOD COLLECTORS	LOCAL ACCESS STREETS	LOCAL ACCESS STREETS	PRIVATE ROADS (RESIDENTIAL) (14)
<b>Land Use Area</b>				
Serving Potential Number of Single-Family Dwelling Units	300 Max.	100 Max.	9 Max.	1 to 4 lots or 2 to 8 Units
<b>CRITERIA</b>				
A. Typical Road Type [13]	Curb	Curb	Curb	Shoulder
B. Design Speed (MPH) [5]	30	25	25	20
C. Horizontal Curvature Min. Radius (Ft.)	275	165	165	90
D. Max. Grade [6]	12	15	15	15
E. Standard Stopping Sight Distance (Ft.) [7]	200	150 ft.	150	125
F. Standard Entering Sight Distance (Ft.) [8]	250	200	200	150
G. Pavement Width (Ft.)	36	28	24	Varies (See Std. Plan 3-202-003)
H. Right-of-way Width [12]	55	50	40	Varies (See Std. Plan 3-202-003)
I. Corner Radii	See Section 3-209	See Section 3-209	See Section 3-209	See Section 3-209
J. Min. Half St. Paved Width (Ft.)	20	20	None	None

**NOTES:**

1. Within the above parameters, geometric design for specific streets shall be consistent with AASHTO Policy on Geometric Design of Highways and Streets.
2. See Section 3-213 for one-way loops.
3. See Section 3-216 for residential access connection requirements.
4. See Section 3-216 for urban exception criteria.
5. Design speed is a basis for determining geometric elements and does not imply posted or legally permissible speed.
6. Maximum grade may be exceeded for short distances. (See Section 3-210).
7. Standard Stopping Sight Distance (SSD) shall apply unless otherwise approved by the Engineer. (See Section 3-211).
8. Standard Entering Sight Distance (ESD) shall be determined at intersections and driveways unless otherwise approved by the Engineer (See Section 3-21).
11. For guardrail installation, shoulders shall be two feet wider.
12. Right-of-way (on easement) may be reduced to minimum roadway width, plus sidewalks, provided that all potential serving utilities and necessary drainage are otherwise accommodated on permanent easements within the development .
13. If area has a high water table elevation as determined by the Public Works Director or designee an alternate roadway section may be used see Standard Plan 3-202-004.
14. Private roads may only be used in short subdivisions with four (4) or less total lots.



**NOTES**

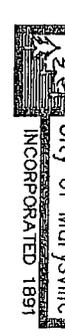
1. CURB & GUTTER SHALL BE CEMENT CONCRETE BARRIER CURB & GUTTER PER SECTION 3-514.
2. CURB AND SIDEWALK JOINTS AS PER SECTION 3-515.
3. REFER TO SECTION 3-303 FOR DRIVEWAY DETAILS.
4. CURB RAMP DETAILS AS PER SECTION 3-516.
5. THIS DRAWING ILLUSTRATES A MINIMUM ASPHALT CONCRETE ROAD SECTION. DESIGN FOR RESIDENTIAL ACCESS STREETS SHALL BE IN ACCORDANCE WITH SECS. 3-401 AND 3-402. ADDITIONAL SUBGRADE TREATMENT MAY BE REQUIRED DEPENDING ON SOIL CONDITIONS.
6. THE RIGHT-OF-WAY WIDTH SHALL BE WIDENED AN ADDITIONAL 5 FEET FOR FIRE HYDRANTS AND MAILBOX CLUSTERS.

<p>*A* COMPACTED DEPTH ACP 2" MIN</p>	<p>*B* COMPACTED DEPTH ATB 3" MIN</p>
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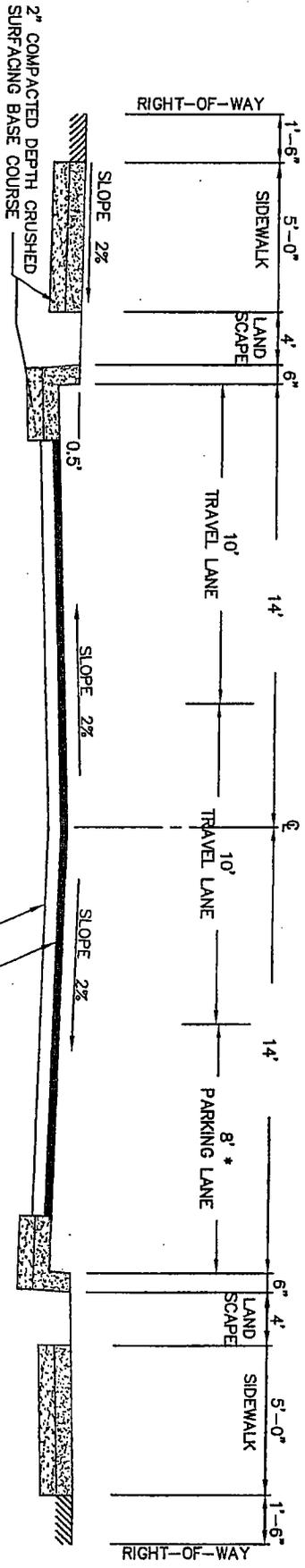
APPROVED BY \_\_\_\_\_ DATE \_\_\_\_\_

MARYSVILLE CITY ENGINEER \_\_\_\_\_

**LOCAL ACCESS STREET**  
 40' RIGHT-OF-WAY  
 COMBINED CURB, GUTTER  
 & SIDEWALK



STANDARD PLAN 3-202-003



**NOTES**

1. CURB & GUTTER SHALL BE CEMENT CONCRETE BARRIER CURB & GUTTER PER SECTION 3-514.
2. CURB AND SIDEWALK JOINTS AS PER SECTION 3-515.
3. REFER TO SECTION 3-303 FOR DRIVEWAY DETAILS.
4. CURB RAMP DETAILS AS PER SECTION 3-516.
5. THIS DRAWING ILLUSTRATES A MINIMUM ASPHALT CONCRETE ROAD SECTION. DESIGN FOR RESIDENTIAL ACCESS STREETS SHALL BE IN ACCORDANCE WITH SECS. 3-401 AND 3-402. ADDITIONAL SUBGRADE TREATMENT MAY BE REQUIRED DEPENDING ON SOIL CONDITIONS.
6. THE RIGHT-OF-WAY WIDTH SHALL BE WIDENED AN ADDITIONAL 5 FEET FOR FIRE HYDRANTS AND MAILBOX CLUSTERS.

"A" CLASS B ASPHALT CONCRETE  
 "B" ASPHALT TREATED BASE COURSE (A.T.B.)

\* PARKING ON ONE SIDE ONLY  
 ALTERNATE EVERY 300 FEET  
 AS APPROVED BY THE CITY ENGINEER

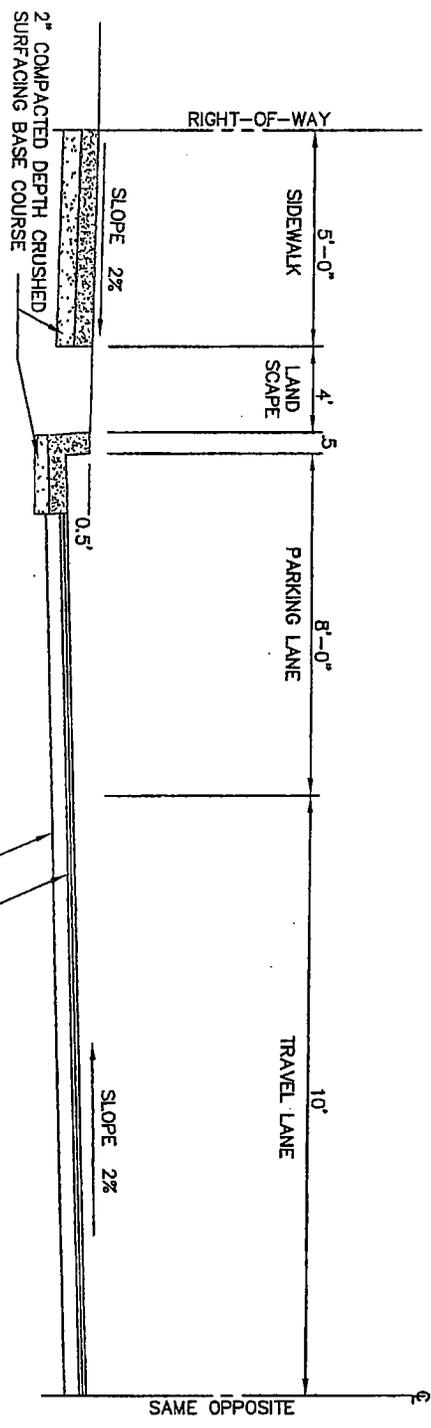
"A" MINIMUM COMPACTED DEPTH OF ACP = 3"  
 "B" MINIMUM COMPACTED DEPTH OF ATB = 4"

APPROVED BY \_\_\_\_\_ DATE \_\_\_\_\_  
 MARYSVILLE CITY ENGINEER

**LOCAL ACCESS STREET**  
 50' RIGHT-OF-WAY  
 COMBINED CURB, GUTTER  
 & SIDEWALK

City of Marysville  
 INCORPORATED 1891

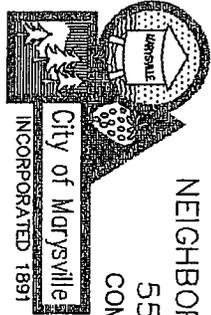
STANDARD PLAN 3-202-002



NOTES

1. CURB & GUTTER SHALL BE CEMENT CONCRETE BARRIER CURB & GUTTER PER SECTION 3-514.
2. CURB AND SIDEWALK JOINTS AS PER SECTION 3-515.
3. REFER TO SECTION 3-303 FOR DRIVEWAY DETAILS.
4. CURB RAMP DETAILS AS PER SECTION 3-516.
5. THIS DRAWING ILLUSTRATES A MINIMUM ASPHALT CONCRETE ROAD SECTION. ACTUAL SURFACING DESIGN FOR ARTERIALS AND COMMERCIAL ACCESS STREETS SHALL BE BASED ON SOILS AND TRAFFIC ANALYSIS.
6. THIS DRAWING ILLUSTRATES A MINIMUM ASPHALT CONCRETE ROAD SECTION. DESIGN FOR RESIDENTIAL ACCESS STREETS SHALL BE IN ACCORDANCE WITH SECS. 3-401 AND 3-402. ADDITIONAL SUBGRADE TREATMENT MAY BE REQUIRED DEPENDING ON SOIL CONDITIONS.
7. THE RIGHT-OF-WAY WIDTH SHALL BE WIDENED AN ADDITIONAL 5 FT MIN FOR PLACEMENT OF FIRE HYDRANT AND MAILBOX CLUSTER INSTALLATION.

LAST REVISED 8/15/01

 <p><b>City of Marysville</b> INCORPORATED 1891</p>	<p><b>NEIGHBORHOOD COLLECTOR</b> 55' RIGHT-OF-WAY COMBINED CURB, GUTTER &amp; SIDEWALK</p>
<p>APPROVED BY _____</p> <p>MARYSVILLE CITY ENGINEER</p>	<p>DATE _____</p>
<p>STANDARD PLAN 3-202-001</p>	

Detached single family, duplex,  
tri-plex, and four-plex residential.

PUBLIC STREET CLASSIFICATION	SHORT SUBDIVISION ACCESS (2)	LOCAL ACCESS "A"	LOCAL ACCESS "B"	COLLECTOR ARTERIAL	MINOR ARTERIAL	PRINCIPAL ARTERIAL
Maximum Number of dwelling units serviced (3)	9	40	100	OVER 100	N.A	N.A
Minimum R.O.W	40'	50' (6)	50' (6)	60'	60'	80'
Minimum Pavement Width Curb to Curb	24' (4)	28' (4)	32' (4)	36'	44'	48'
Slidewalks (5)	1 to 4 D.U.-OPTIONAL 5 to 9 D.U.-REQUIRED	Required	Required	Required	Required	Required
Geometrics & Structural Section	Std. Plan # 302	St. Plan # 302	St. Plan # 302	St. Plan # 301	St. Plan # 301	St. Plan # 301
Max. Allowable Grade ***(%) (1)	15%	15%	15%	12%	9%	8%
Utility Easement Beyond R.O.W Req'd	10' Each Side of Public R.O.W.			As Required By City Engineer		

NOTES:

- (1) Maximum grade may be exceeded subject to approval by the City Engineer, such approval may be conditional upon the following:
  - a) No practical alternative exists.
  - b) Any grade over 15% will be review by the city on a case by case basis.
- (2) Can only be used on short plats and cannot be part of a larger development. Must be a permanent dead end.
- (3) Maximum potential number of dwelling units served, will include FORECASTED future development of adjacent areas.
- (4) 36' wide street section required if less than four(4) off-street parking spaces provided per dwelling unit.  
One (1) driveway allowed per lot on "access" streets.
- (5) City Engineer may allow sidewalk on one side only in areas of extensive cuts and/or fills and if projected pedestrian volumes are less than normal.
- (6) City Engineer may allow variance per Section 1.9

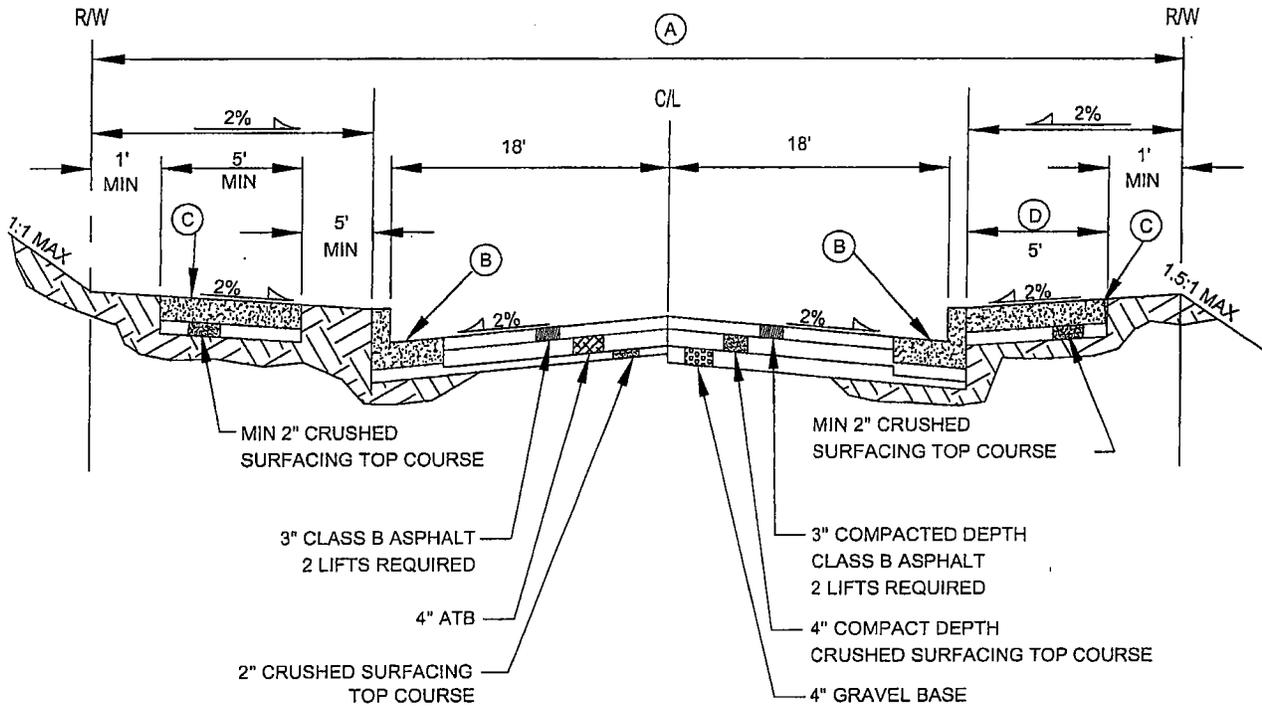


**ROADWAY FUNCTIONAL CLASSIFICATIONS**

Approved By:  
*[Signature]*  
City Engineer  
Date: May 30, 2004

**300**  
Number

**City of Snohomish Public Works Department**



**ALTERNATE ROADWAY SECTION**

**STANDARD ROADWAY SECTION**

(D) VARIANCE MAY BE ADJUSTED FOR A NARROWER RIGHT OF WAY AND THE SIDEWALK LOCATED ADJACENT TO CURB PER SECTION 1.9 IF EXISTING SITE CONSTRAINTS CAUSE EXTREME HARDSHIPS FOR THE WIDER PAVEMENT SECTION AS DETERMINED BY THE PUBLIC WORKS DIRECTOR.

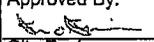
(A) 60' STANDARD RIGHT OF WAY  
 (B) CONCRETE CURB AND GUTTER TYPE A-1 SEE STD DWG 305A  
 (C) CEMENT CONCRETE SIDEWALK SEE STD DWG 306

**NOTES:**

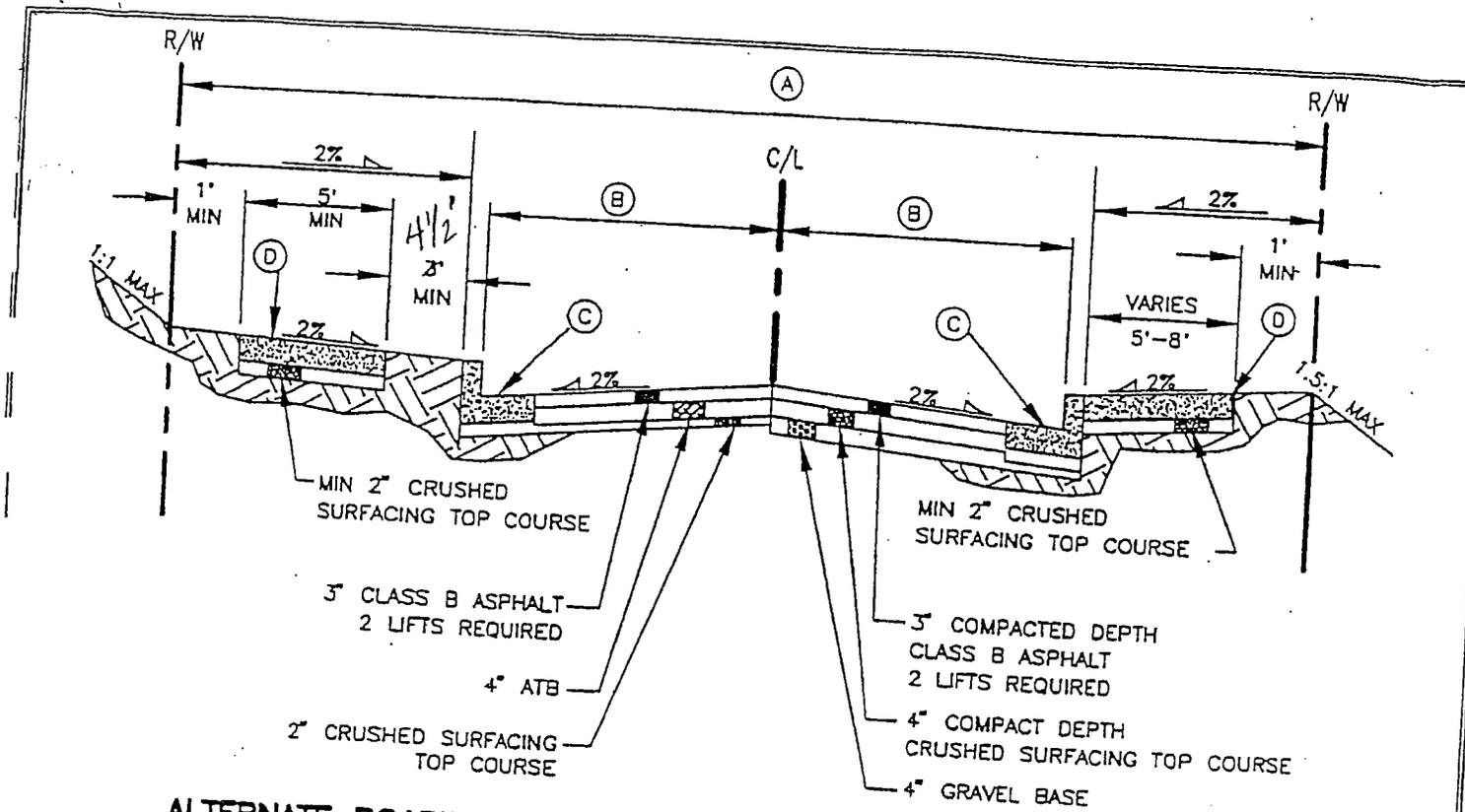
- 1 IN WIDENING AREAS, THE EXISTING PAVEMENT EDGE SHALL BE SAW-CUT TO LEAVE A JOIN POINT. ANY TRAFFIC STRIPING REMOVED OR DAMAGED DURING WIDENING WORK SHALL BE REPLACED IN KIND OR AS DIRECTED BY THE CITY ENGINEER.
- 2 COMPACTION TESTS ON SUBGRADE AND SURFACING SHALL BE REQUIRED. THE NUMBER OF TESTS SHALL BE AT THE DISCRETION OF THE CITY INSPECTOR. ALL TESTING SHALL BE THROUGH A LICENSED TESTING LABORATORY. THE MINIMUM COMPACTION SHALL BE 95% OF MAXIMUM DENSITY ON BOTH SUBGRADE AND SURFACING.
- 3 ADJUSTMENT OF CATCH BASIN LIDS OR GRATES, MONUMENTS CASES, VALVE BOXES, ETC SHALL BE THE RESPONSIBILITY OF THE CONTRACTOR OR DEVELOPER.
- 4 ROADWAY SECTION MAY BE ADJUSTED WITH THE APPROVAL OF THE CITY ENGINEER UPON SUBMISSION OF SUBSTANTIATING ENGINEERING DATA (CBR, ETC) TO SUPPORT THE ADJUSTMENT. FOR DESIGN PURPOSES, THE MINIMUM THICKNESS OF CLASS B ASPHALT SHALL BE 3" COMPACTED DEPTH. COMPACTION SHALL BE AN AVERAGE OF 92% OF RICE DENSITY.



**TYPICAL ROADWAY SECTIONS  
 LOCAL ACCESS STREETS**

Approved By:   
 City Engineer  
 Date: May 30, 2004  
 302  
 Number

**City of Snohomish Public Works Department**



**ALTERNATE ROADWAY SECTION**

**STANDARD ROADWAY SECTION**

- (A) **RIGHT OF WAY REQUIREMENTS**  
 NEIGHBORHOOD ACCESS (LOCAL) = 50'  
 PRIVATE ACCESS TRACT = 25'  
 ALLEY = 20'
- (B) **PAVEMENT WIDTH**  
 NEIGHBORHOOD ACCESS (LOCAL) = 14'  
 PRIVATE ACCESS TRACT = 10'  
 ALLEY = 8'

- (C) CONCRETE CURB AND GUTTER TYPE A-1  
 SEE STD DWG
- (D) CEMENT CONCRETE SIDEWALK  
 SEE STD DWG

**NOTES:**

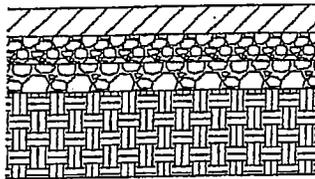
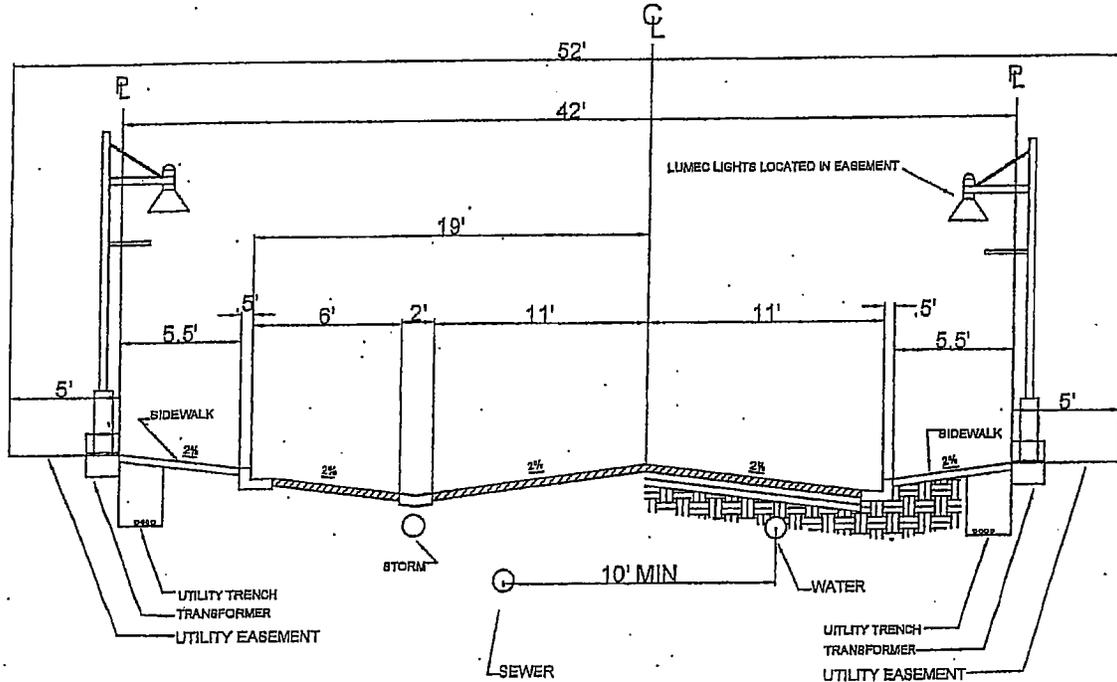
- 1 IN WIDENING AREAS, THE EXISTING PAVEMENT EDGE SHALL BE SAW-CUT TO LEAVE A JOIN POINT. ANY TRAFFIC STRIPING REMOVED OR DAMAGED DURING WIDENING WORK SHALL BE REPLACED IN KIND OR AS DIRECTED BY THE CITY ENGINEER.
- 2 COMPACTION TESTS ON SUBGRADE AND SURFACING SHALL BE REQUIRED. THE NUMBER OF TESTS SHALL BE AT THE DISCRETION OF THE CITY INSPECTOR. ALL TESTING SHALL BE THROUGH A LICENSED TESTING LABORATORY. THE MINIMUM COMPACTION SHALL BE 95% OF MAXIMUM DENSITY ON BOTH SUBGRADE AND SURFACING.
- 3 ADJUSTMENT OF CATCH BASIN LIDS OR GRATES, MONUMENTS CASES, VALVE BOXES, ETC SHALL BE THE RESPONSIBILITY OF THE CONTRACTOR OR DEVELOPER.
- 4 ROADWAY SECTION MAY BE ADJUSTED WITH THE APPROVAL OF THE CITY ENGINEER UPON SUBMISSION OF SUBSTANTIATING ENGINEERING DATA (CBR, ETC) TO SUPPORT THE ADJUSTMENT. FOR DESIGN PURPOSES, THE MINIMUM THICKNESS OF CLASS B ASPHALT SHALL BE 3" COMPACTED DEPTH. COMPACTION SHALL BE AN AVERAGE OF 92% OF RICE DENSITY.



**TYPICAL ROADWAY SECTIONS  
 LOCAL ACCESS STREETS**

*[Signature]*  
 Approved  
 12/96  
 Date Approved *[Signature]*

# FIGURE 2-07B



- .33' HOT MIX ASPHALT, WSDOT 8-04
- .33' CRUSHED SURFACING TOP COURSE, WSDOT 9-03.9(3)
- .33' CRUSHED SURFACING BASE COURSE, WSDOT 9-03.9(3)
- NATIVE MATERIAL ALLOWED IF ADEQUATE SOILS CONDITIONS EXIST, IF ACCEPTABLE SOILS ARE NOT PRESENT, MATERIALS CONFORMING TO WSDOT 9-03.10 SHALL BE USED.

**NOTES:**

1. On street parking may be deleted if separate tract(s) are dedicated to parking with in the plat
2. Traffic calming features may be required on residential roads connecting public arterials
3. Deletion of Sidewalk on one side of street allowed if units are "sideloaded" or as permitted by the City Engineer
4. Vertical curb and gutter meeting FIG 2-16 required on both sides of street
5. Decorative lumeC ped lighting approved by the City required on both sides of the street spaced at 150' intervals

CITY OF GIG HARBOR  
DEPARTMENT OF PUBLIC WORKS

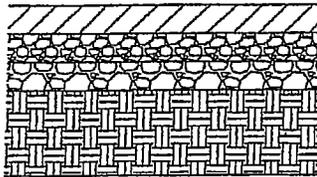
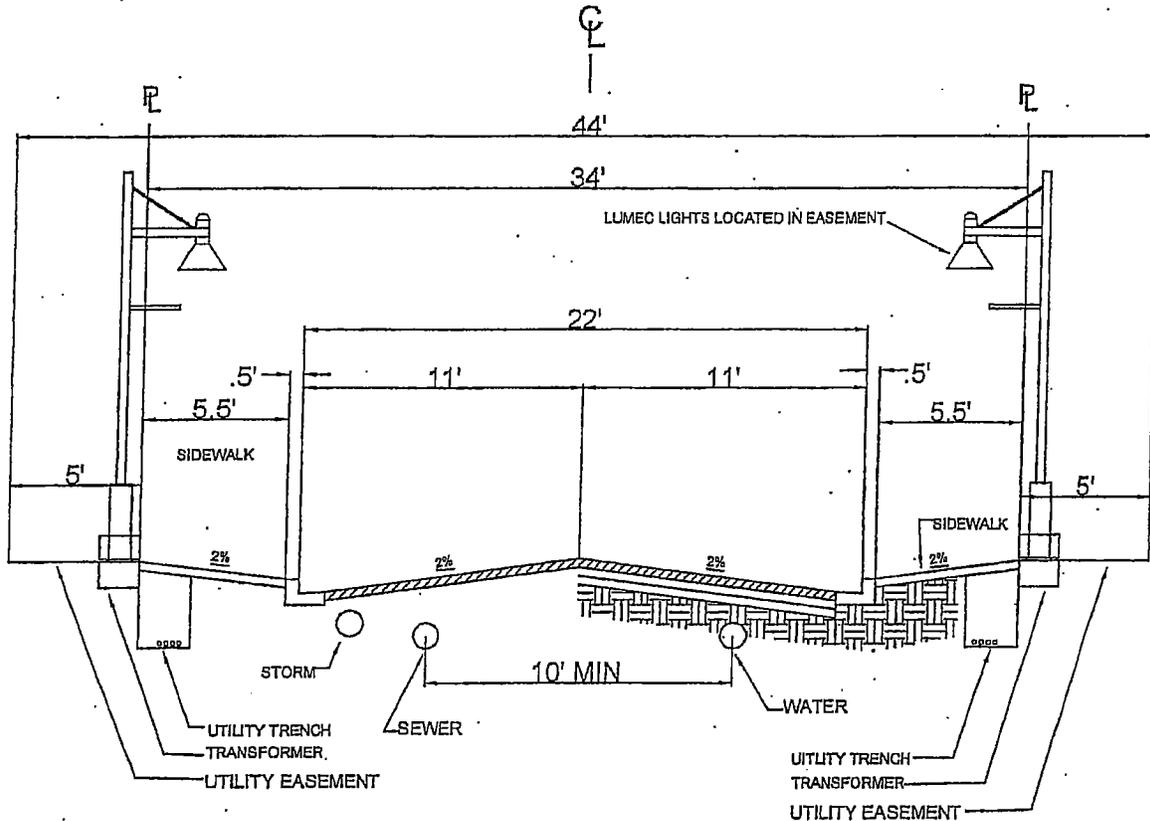
**STREET DESIGN MAJOR LOCAL  
RESIDENTIAL**

APPROVED BY CITY ENGINEER \_\_\_\_\_ DATE 11/3/04

NTS

DWN	GBG	CKD	STM	DATE	FILE
				11/2/04	2-07B

# FIGURE 2-07C



- .33' HOT MIX ASPHALT, WSDOT 6-04
- .33' CRUSHED SURFACING TOP COURSE, WSDOT 9-03.9(3)
- .33' CRUSHED SURFACING BASE COURSE, WSDOT 9-03.9(3)
- NATIVE MATERIAL ALLOWED IF ADEQUATE SOILS CONDITIONS EXIST, IF ACCEPTABLE SOILS ARE NOT PRESENT, MATERIALS CONFORMING TO WSDOT 9-03.10 SHALL BE USED.

**NOTES:**

1. On street parking prohibited
2. Lumecc decorative street lights approved by the City required on both sides of the street at 150' intervals
3. Deletion of Sidewalk on one side of street allowed if residential units are "sideloaded"
4. Vertical curb and gutter meeting FIG 2-16 required on both sides of street

CITY OF GIG HARBOR  
DEPARTMENT OF PUBLIC WORKS

STREET DESIGN MINOR LOCAL RESIDENTIAL

APPROVED BY CITY ENGINEER \_\_\_\_\_ DATE 11/3/04

NTS

DWN	CKD	DATE	FILE
GBG	STM	11/2/04	2-07C

Detached single family, duplex, tri-plex, and four-plex residential

CLASSIFICATION of PUBLIC STREET	SHORT SUBDIVISION ACCESS ②	LOCAL ACCESS "A"	LOCAL ACCESS "B"	COLLECTOR ARTERIAL	MINOR ARTERIAL	PRINCIPAL ARTERIAL
Maximum Number of dwelling units serviced ③	9	40	100	OVER 100	N.A	N.A
Minimum R.O.W	40'	50'	50'	60'	60'	80'
Minimum Pavement Width Curb to Curb	24' ④	28' ④	32' ④	36'	44'	48'
Sidewalks ⑤	1 to 4 D.U.—OPTIONAL 5 to 9 D.U.—REQUIRED	Required	Required	Required	Required	Required
Geometrics & Structural Section	Std. Plan # 302	St. Plan # 302	St. Plan # 302	St. Plan # 301	St. Plan # 301	St. Plan # 301
Max. Allowable Grade ***(%) ①	15%	15%	15%	12%	9%	8%
Utility Easement Beyond R.O.W Req'd	10' Each Side of Public R.O.W.			As Required By City Engineer		

**NOTES:**

- ① Maximum grade may be exceeded subject to approval by the City Engineer, such approval may be conditional upon the following:
  - a) No practical alternative exists.
  - b) Any grade over 15% will be review by the city on a case by case basis.
- ② Can only be used on short plats and cannot be part of a larger development. Must be a permanent dead end.
- ③ Maximum potential number of dwelling units served, will include FORECASTED future development of adjacent areas.
- ④ 36' wide street section required if less than four(4) off-street parking spaces provided per dwelling unit.  
One (1) driveway allowed per lot on "access" streets.
- ⑤ City Engineer may allow sidewalk on one side only in areas of extensive cuts and/or fills and if projected pedestrian volumes are less than normal.

STD300.DWG

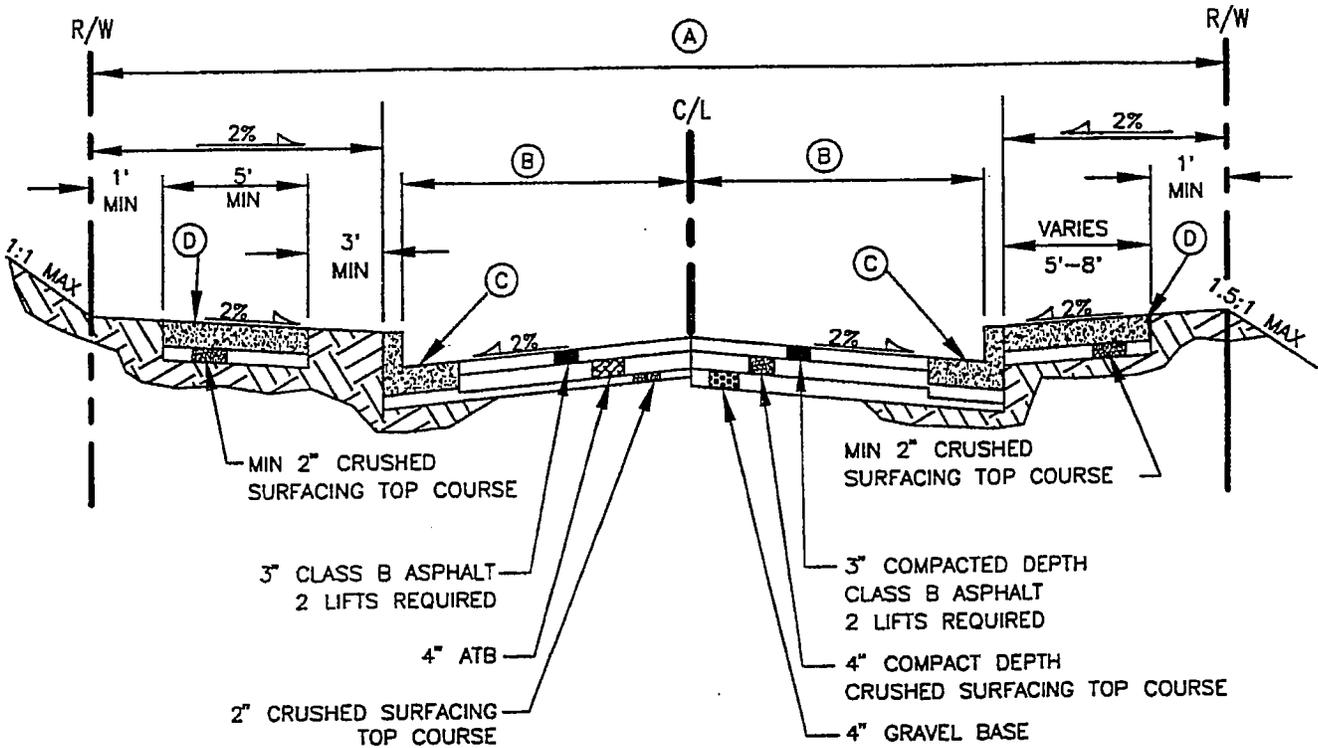


**ROADWAY FUNCTIONAL CLASSIFICATIONS**

10-27-90  
date

300  
number

**CITY OF EVERETT - PUBLIC WORKS DEPARTMENT**



**ALTERNATE ROADWAY SECTION**

**STANDARD ROADWAY SECTION**

- (A) RIGHT OF WAY REQUIREMENTS  
 SHORT PLAT ACCESS STREET = 40'  
 LOCAL ACCESS A = 50'  
 LOCAL ACCESS B = 50'
- (B) PAVEMENT WIDTH  
 SHORT PLAT ACCESS STREET = 12'  
 LOCAL ACCESS A = 14'  
 LOCAL ACCESS B = 16'

- (C) CONCRETE CURB AND GUTTER TYPE A-1  
 SEE STD DWG 305A
- (D) CEMENT CONCRETE SIDEWALK  
 SEE STD DWG 306

**NOTES:**

- 1 IN WIDENING AREAS, THE EXISTING PAVEMENT EDGE SHALL BE SAW-CUT TO LEAVE A JOIN POINT. ANY TRAFFIC STRIPING REMOVED OR DAMAGED DURING WIDENING WORK SHALL BE REPLACED IN KIND OR AS DIRECTED BY THE CITY ENGINEER.
- 2 COMPACTION TESTS ON SUBGRADE AND SURFACING SHALL BE REQUIRED. THE NUMBER OF TESTS SHALL BE AT THE DISCRETION OF THE CITY INSPECTOR. ALL TESTING SHALL BE THROUGH A LICENSED TESTING LABORATORY. THE MINIMUM COMPACTION SHALL BE 95% OF MAXIMUM DENSITY ON BOTH SUBGRADE AND SURFACING.
- 3 ADJUSTMENT OF CATCH BASIN LIDS OR GRATES, MONUMENTS CASES, VALVE BOXES, ETC SHALL BE THE RESPONSIBILITY OF THE CONTRACTOR OR DEVELOPER.
- 4 ROADWAY SECTION MAY BE ADJUSTED WITH THE APPROVAL OF THE CITY ENGINEER UPON SUBMISSION OF SUBSTANTIATING ENGINEERING DATA (CBR, ETC) TO SUPPORT THE ADJUSTMENT. FOR DESIGN PURPOSES, THE MINIMUM THICKNESS OF CLASS B ASPHALT SHALL BE 3" COMPACTED DEPTH. COMPACTION SHALL BE AN AVERAGE OF 92% OF RICE DENSITY.

R:\CADESIGN\STDS\STDR302.DWG COPYRIGHT 1996 CITY OF EVERETT



**TYPICAL ROADWAY SECTIONS  
 LOCAL ACCESS STREETS**

5-6-96  
 date revised

302  
 number

**CITY OF EVERETT - PUBLIC WORKS DEPARTMENT**

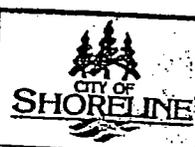
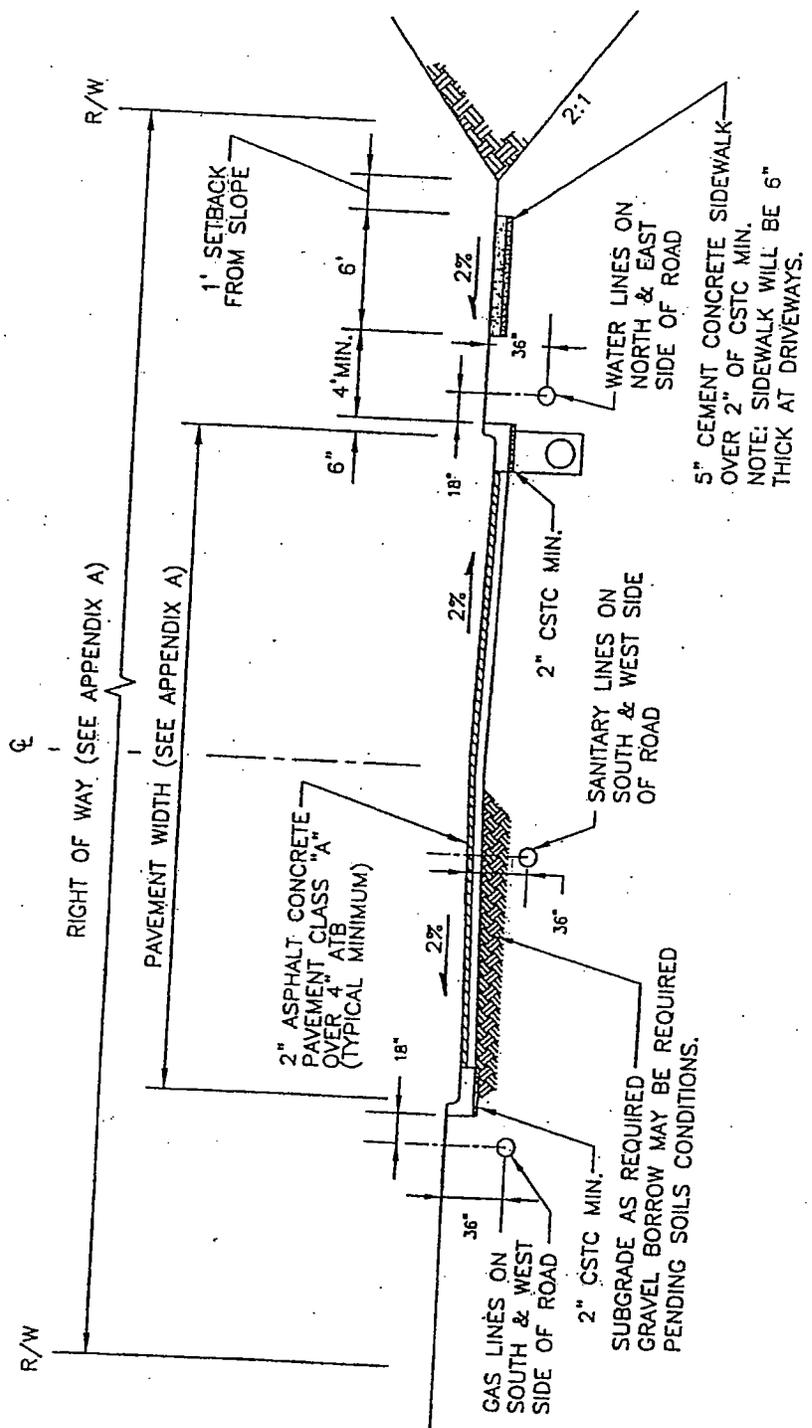
Appendix A: Local Streets – Geometric Criteria

STREET CLASSIFICATION	ALLEY	COLLECTOR (RESIDENTIAL/MULTI FAMILY/ COMMERCIAL/ INDUSTRIAL)*(5)	RESIDENTIAL	DEAD END RESIDENTIAL
Function	Not intended for through traffic, utility and service corridor.	Inter-neighborhood streets connecting two or more neighborhoods and providing inter-residential travel. (Streets providing local access for business, commercial, industrial, and multifamily uses.)*(7)	Neighborhood streets, low traffic volumes.	Dead end neighborhood street, lowest traffic volume.
Access	Access to abutting properties.	Access limited to abutting lots not fronting on residential streets.	As main function, access to abutting properties.	Access to abutting properties.
ADT	Under 200	400 to 4,000	100 - 399	Under 100
A. Design Speed (mph)				
A. Min. Radius (ft.)				
B. Max. Grade (%)				
D. Min. Right-of-Way (ft.)				
E. Min. Pavement Width (ft.)				
F. Type of Curb	N/A	Type A	Type A	Type A
G. Max. Superelevation	N/A	.04 ft/ft	.02 ft/ft	.02 ft/ft

\*NOTE:

1. Flat - Typical cross slopes from 0-8%. Rolling - Typical cross slopes from 9-15%. Steep - Typical cross slopes over 15%.
2. Design speed is a basis for determining geometric elements not herein specified and does not imply posted or legally permissible speed.
3. Max. grade may be exceeded for short distances provided no practical alternative exists and subject to approval by the Engineer.
4. Additional right-of-way and pavement width may be required.
5. Pavement widths for different roadway uses:  

Traffic lane	11 feet	Bike lane	5 feet
Turning lane	12 feet	Shared traffic/bike lane	14 feet
Parking	8 feet		
6. Local streets may require traffic calming features as a condition of development.
7. Commercial/Industrial streets must meet Residential Collector standards, except that a wider street width may be required due to a greater percentage of over-size vehicles.



SCALE No Scale

TITLE

Typical Local Street

NO. ST-2a

REV. DATE 12/99

PUBLIC AND PRIVATE ROAD STANDARD - URBAN

ROAD CLASSIFICATION	DESIGN SPEED (MPH)	PAVEMENT WIDTH	TRAVEL LANES	PARKING LANE	PLANTER WIDTH	SIDEWALK WIDTH	R/W WIDTH	SEE STD DRAWING
RESIDENTIAL (ADT 1 - 1000)	25 (4)	28'	2x10'	1x8' (2)	5' MIN. (7)	5' MIN. (7)	51'-55' (5) (6)	3-050
COLLECTOR (ADT 1001 - 3000)	30-35 (4)	36'	2x10'	2x8' (3)	5' MIN.	5' MIN.	59'-63'	3-050

NOTES:

- ROAD STANDARDS BASED ON "RESIDENTIAL STREETS", 2ND EDITION, PUBLISHED JOINTLY BY THE AMERICAN SOCIETY OF CIVIL ENGINEERS, THE NATIONAL ASSOCIATION OF HOME BUILDERS AND THE URBAN LAND INSTITUTE.
  - PARKING RESTRICTED TO ONE SIDE.
  - NO RESTRICTION ON PARKING.
  - MAY BE REDUCED UPON APPROVAL OF THE ENGINEER. REFER TO SECTION 3-06.
  - BICYCLE LANES MAY BE REQUIRED ON ROADS THAT ARE DESIGNATED BIKEWAY ROUTES. PAVEMENT AND R/W WIDTH SHALL BE WIDENED AS NECESSARY. SEE TEXT SECTION 4-08.
  - RIGHT OF WAY WIDTH MAY VARY. SEE TEXT SECTION 3-03B.
  - FOR RESIDENTIAL ROADS SERVING 90 ADT OR LESS AND HAVING NO POTENTIAL FOR CONNECTIVITY, SIDEWALKS AND PLANTERS ARE NOT REQUIRED. HOWEVER, WHERE SAFE WALKING CONDITIONS FOR STUDENTS ARE IMPOSED PURSUANT TO RCW 58.17.060, 58.17.110 OR APPLICABLE COUNTY CODES, A SIDEWALK ONLY WILL BE REQUIRED ON ONE SIDE OF THE ROAD
- SEE TEXT CHAPTER 3



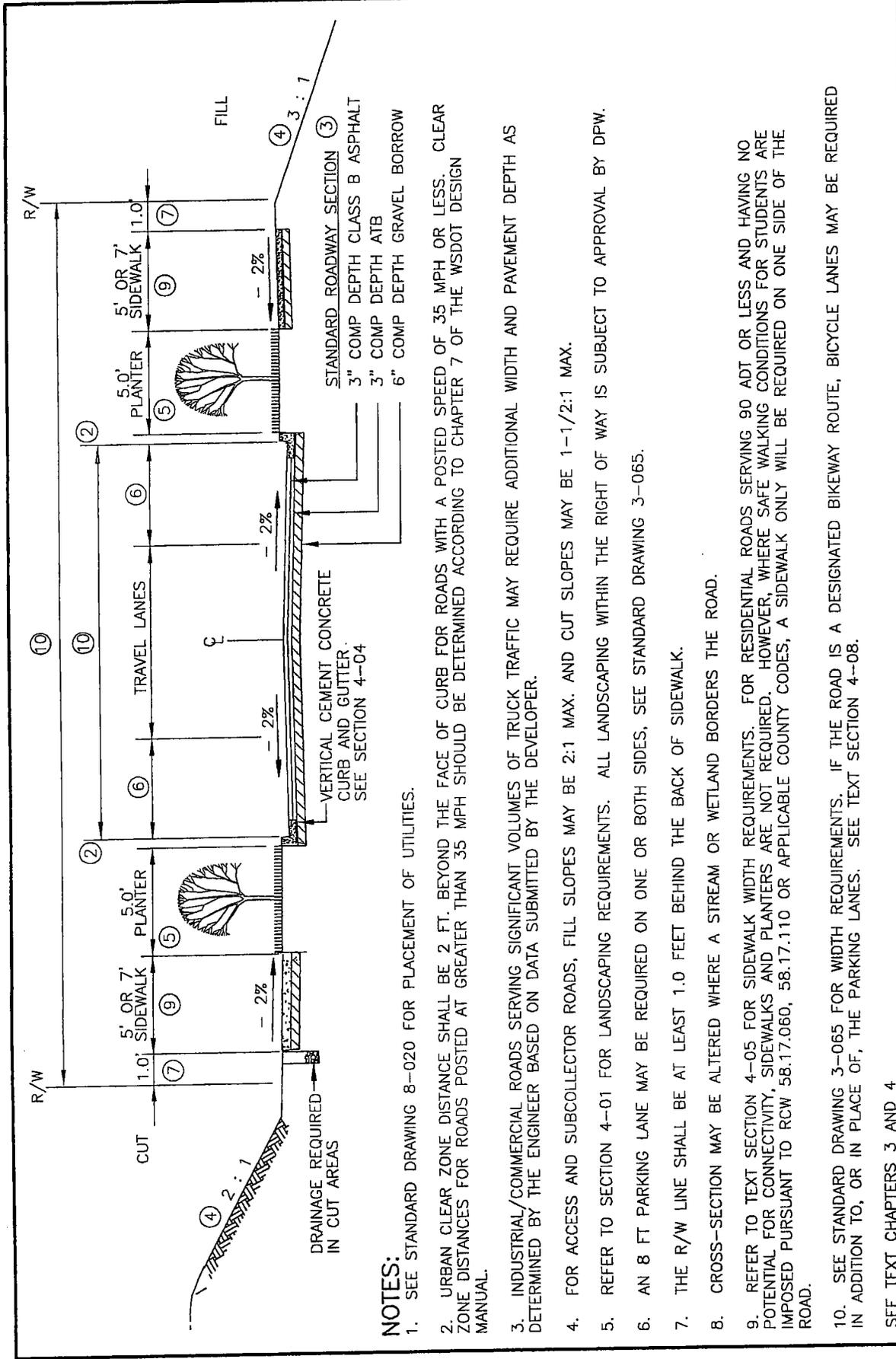
SNOHOMISH COUNTY PUBLIC WORKS

APPROVED BY:

3-065 ROAD STANDARDS - NON-ARTERIALS (URBAN)

COUNTY ROAD ENGINEER

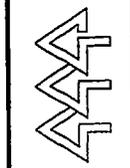
DATE



**NOTES:**

1. SEE STANDARD DRAWING 8-020 FOR PLACEMENT OF UTILITIES.
2. URBAN CLEAR ZONE DISTANCE SHALL BE 2 FT. BEYOND THE FACE OF CURB FOR ROADS WITH A POSTED SPEED OF 35 MPH OR LESS. CLEAR ZONE DISTANCES FOR ROADS POSTED AT GREATER THAN 35 MPH SHOULD BE DETERMINED ACCORDING TO CHAPTER 7 OF THE WSDOT DESIGN MANUAL.
3. INDUSTRIAL/COMMERCIAL ROADS SERVING SIGNIFICANT VOLUMES OF TRUCK TRAFFIC MAY REQUIRE ADDITIONAL WIDTH AND PAVEMENT DEPTH AS DETERMINED BY THE ENGINEER BASED ON DATA SUBMITTED BY THE DEVELOPER.
4. FOR ACCESS AND SUBCOLLECTOR ROADS, FILL SLOPES MAY BE 2:1 MAX. AND CUT SLOPES MAY BE 1-1/2:1 MAX.
5. REFER TO SECTION 4-01 FOR LANDSCAPING REQUIREMENTS. ALL LANDSCAPING WITHIN THE RIGHT OF WAY IS SUBJECT TO APPROVAL BY DPW.
6. AN 8 FT PARKING LANE MAY BE REQUIRED ON ONE OR BOTH SIDES, SEE STANDARD DRAWING 3-065.
7. THE R/W LINE SHALL BE AT LEAST 1.0 FEET BEHIND THE BACK OF SIDEWALK.
8. CROSS-SECTION MAY BE ALTERED WHERE A STREAM OR WETLAND BORDERS THE ROAD.
9. REFER TO TEXT SECTION 4-05 FOR SIDEWALK WIDTH REQUIREMENTS. FOR RESIDENTIAL ROADS SERVING 90 ADT OR LESS AND HAVING NO POTENTIAL FOR CONNECTIVITY, SIDEWALKS AND PLANTERS ARE NOT REQUIRED. HOWEVER, WHERE SAFE WALKING CONDITIONS FOR STUDENTS ARE IMPOSED PURSUANT TO RCW 58.17.060, 58.17.110 OR APPLICABLE COUNTY CODES, A SIDEWALK ONLY WILL BE REQUIRED ON ONE SIDE OF THE ROAD.
10. SEE STANDARD DRAWING 3-065 FOR WIDTH REQUIREMENTS. IF THE ROAD IS A DESIGNATED BIKEWAY ROUTE, BICYCLE LANES MAY BE REQUIRED IN ADDITION TO, OR IN PLACE OF, THE PARKING LANES. SEE TEXT SECTION 4-08.

SEE TEXT CHAPTERS 3 AND 4



**SNOHOMISH COUNTY PUBLIC WORKS**

APPROVED BY:

3-050 TYPICAL NON-ARTERIAL ROAD - URBAN AREAS

COUNTY ROAD ENGINEER

DATE

# STREET CLASSIFICATION

	FIRE ACCESS		ALLEY	LOCAL ACCESS ⑥	COLLECTOR ⑦	ARTERIAL ⑨
	Maximum Number of dwelling units serviced ②	2	4	40	100	OVER 100
Maximum R.O.W	21	25	24'	50'	108'	130'
Minimum Pavement Width	16'	20'	24'	28'	37' ③	37
Sidewalks ④	N.A.	N.A.	N.A.	5' both sides	5' both sides	5' both sides
Bike Lane Where Required	N.A.	N.A.	N.A.	N.A.	8' Combined	8'
Geometrics & Structural Section ⑤	SEE STD. DWG. No. 301	SEE STD. DWG. No. 301A	SEE STD. DWG. No. 313	SEE STD. DWG. No. 312	SEE STD. DWG. 310A-310B	SEE STD. DWG. 309-309A
Max. Allowable Grade ***(%) ①	15%	15%	15%	15%	15%	10%
Utility Easement Beyond R.O.W Req'd	as Required to serve area		N.A.	10' both sides	10' both sides	10' both sides

## NOTES:

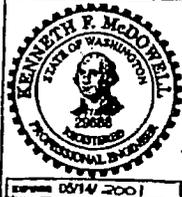
- ① Maximum grade may be exceeded subject to approval by the Director and Fire Marshal. Such approval may be conditional upon the following:
  - a) No practical alternative exists.
  - b) Any grade over 15% will be reviewed by the City on a case by case basis.
- ② Maximum potential number of dwelling units serviced will include FORECASTED future development of adjacent areas.
- ③ An additional 8'-6" of paving and R/W are required if less than four (4) off-street parking spaces are provided per dwelling unit. One (1) driveway allowed per lot on "access" streets.
- ④ The Director may allow sidewalk on one side only in areas of extensive cuts and/or fills and if projected pedestrian volumes are less than normal.
- ⑤ American Association of State Highway and Transportation Officials (AASHTO) "Policy on Geometric Design of Highways and Streets."
- ⑥ Equivalent to ASSHTO Urban Local street.
- ⑦ Equivalent to ASSHTO Urban Collector street.
- ⑧ Equivalent to ASSHTO Urban Minor Arterial Street.
- ⑨ Equivalent to AASHTO Urban Principal Arterial.



**City of Bothell**

**PUBLIC WORKS**

**COMMUNITY DEVELOPMENT**



**ROADWAY FUNCTIONAL CLASSIFICATION**

Alteration of this drawing is prohibited. Any approval of an altered drawing is unauthorized and void.

**300**

Revision Date  
Oct 2000



City of Bothell

PUBLIC WORKS

COMMUNITY DEVELOPMENT

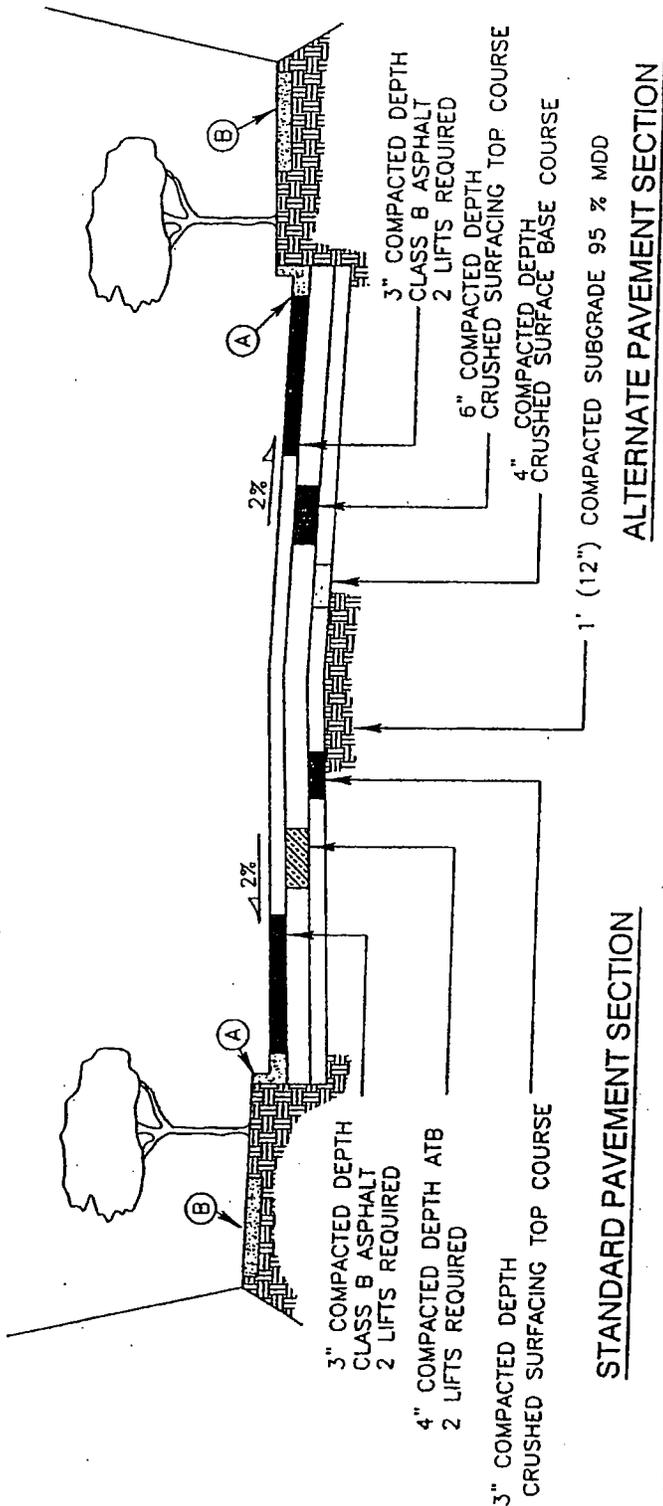


# TYPICAL ROAD SECTION LOCAL ACCESS STREETS

Alteration of this drawing is prohibited. Any approval of an altered drawing

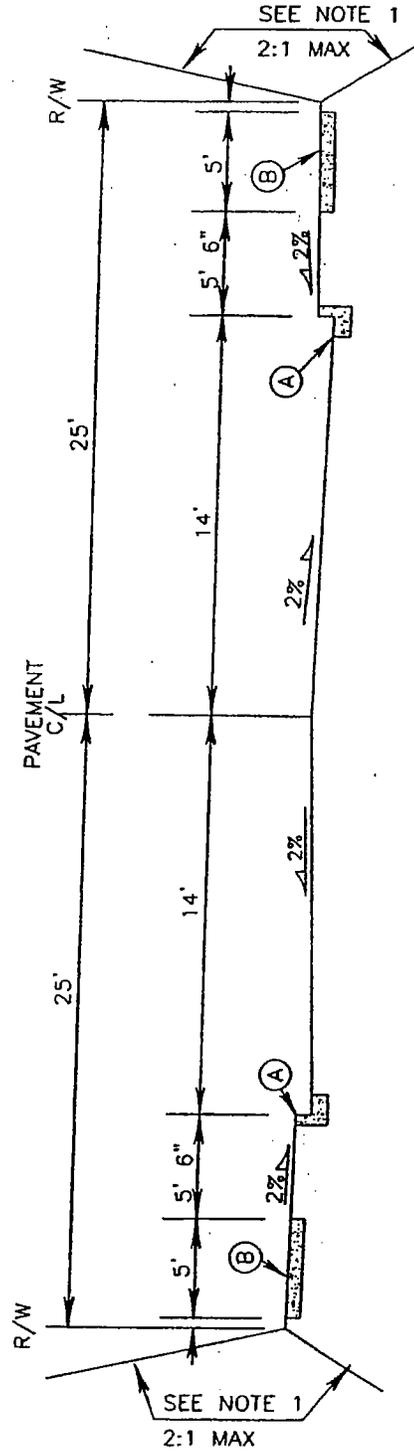
**310**

Revision Date



**NOTES:**

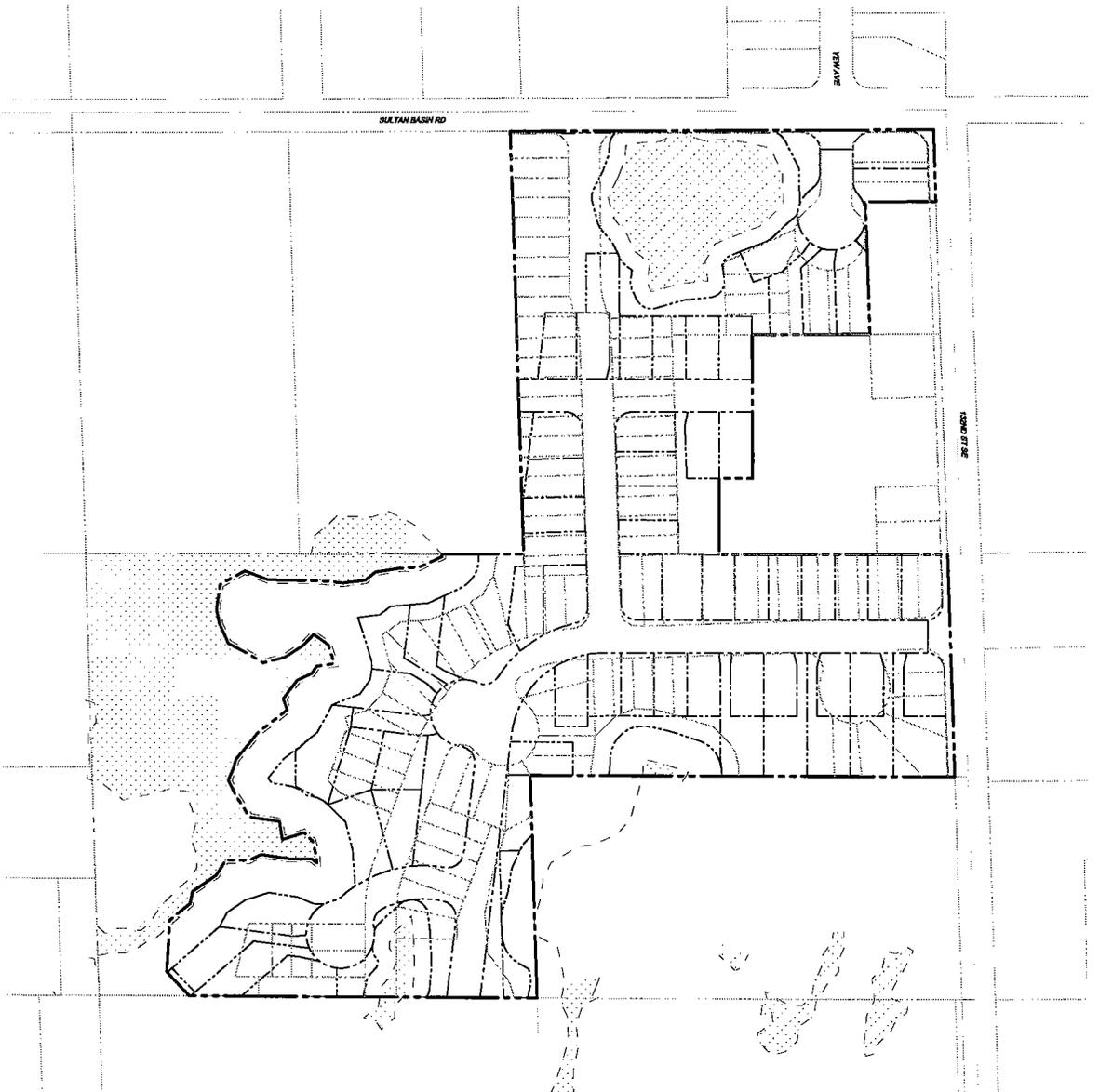
- 1 SLOPE EASEMENTS MAY BE REQUIRED (TYPICAL)
- 2 SEE LANDSCAPE DETAILS 362 AND 363
- 3 ALLOWS PARKING ON ONE SIDE OF STREET.



(A) CONCRETE CURB AND GUTTER TYPE A-1, SEE STD DETAIL 340

(B) CONCRETE SIDEWALK, SEE STD DETAIL 344

**EXHIBIT 6**



**SULTAN 144, LLC  
GREENS ESTATES  
ORIGINAL AND CURRENT  
SITE PLAN**

**IDC**  
Land Development Corporation  
10000 West 10th Avenue, Suite 100  
Denver, CO 80202  
www.idc.com

**LEGEND**  
—— ORIGINAL SITE PLAN  
- - - - CURRENT SITE PLAN

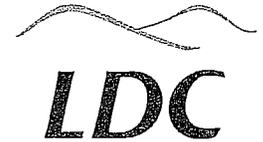
**SITE STATISTICS**

ORIGINAL SITE PLAN	
TOTAL LOTS	108
LANDSCAPE AREA	8,178 SF
AVENUE LOT AREA	3,284 SF
CURRENT SITE PLAN	
TOTAL LOTS	42
SMALLEST LOT AREA	484 SF
AVENUE LOT AREA	6,880 SF

# **EXHIBIT 7**

# Memo

To: City of Sultan  
From: Mark Villwock, P.E.  
CC: Craig Sears - Sultan 14,4 LLC.  
Date: December 24, 2007  
Re: Greens Estates Density and Open Space Calculations



14201 NE 200th Street  
Suite 100  
Woodinville, WA 98072  
Voice (425) 806-1869  
Fax (425) 482-2893

---

## Total Allowable Density Per Section 16.12.010

Total Site area = 18.06 Acres

PUD Density = 5 Units Maximum/Acre

**Allowed Number of units = 90 Units**

**Units Proposed = 63 Units**

Note: This density calculation does not include any density incentives allowed by 16.10.120

## Dedicated Open Space

Active Open Space = 2.72 Acres (15% of site)  
Per SMC 16.10.140(C) 15% Minimum Required

Conservation Open Space = 3.89 Acres (21.6% of site)

Total Open Space on Site = 6.61 Acres (36.6%)

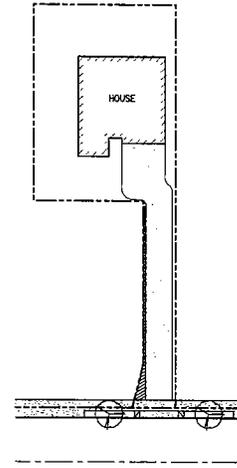
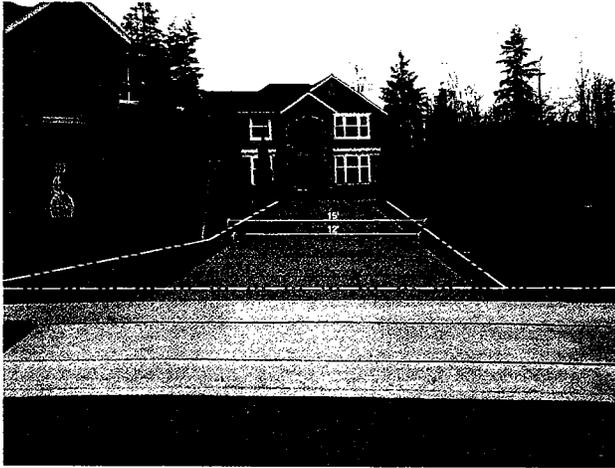
Open Spaced deeded to City = 3.49 Acres

Required Open Space = 4.32 Acres (20%)  
Per SMC 16.10.140 (B)

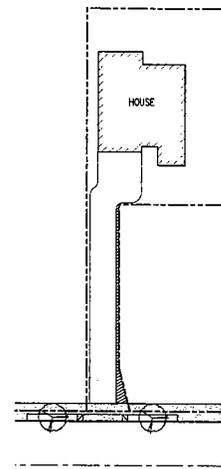
**Total Open Space associated with project 10.1 Acres (46.87%)**

Exh. 7

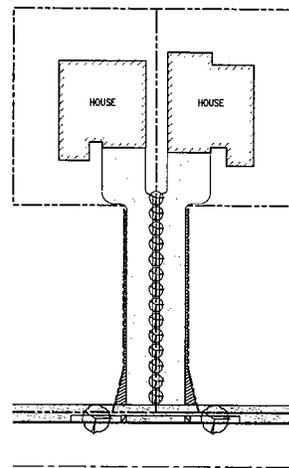
# **EXHIBIT 8**



**EXAMPLE A: DRIVEWAY FOR FLAG LOT**



**EXAMPLE B: DRIVEWAY FOR FLAG LOT**



**EXAMPLE C: DRIVEWAY FOR FLAG LOT**

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**DISCLAIMER**  
 HOUSES DEPICTED ARE NOT REPRESENTATIVE  
 OF GREENS ESTATES PUD PLANS.

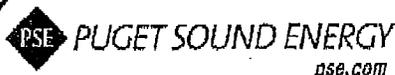
**SULTAN 144, LLC  
 GREENS ESTATES  
 FLAG LOT EXHIBIT**

**LDC**  
 Land Development Consultants, Inc.  
 Planning • Civil Engineering • Project Management  
 11201 NE 20th St, 1100  
 Redmond, WA, 98073  
 Phone: 425-854-1849 Fax: 425-852-2913  
 www.LDCinc.com  
 ISSUE DATE: 12-13-07

# **EXHIBIT 9**

---

*The energy to do great things*



December 12, 2007

Ref: 066605

Mark Villwock, P.E.  
Land Development Consultants, Inc.  
14201 NE 200th Street, Ste. 100  
Woodinville, WA 98072

Dear Mr. Villwock:

I have reviewed the road and landscaping plans you provided. The road plans you provided us did not show proposed utility locations. Per the request of our transmission engineers, we are making it a condition of the consent that no utilities or other infrastructure be placed south of the centerline of the road that runs parallel with the easement.

Although it is a standard condition of the consent that no trees with a mature height of 15 feet be planted within the easement area, we are asking that you not place trees along the roads crossing the easement; this creates a barrier to access.

Among other items covered in the consent, fencing, while not prohibited, should provide access, and preferably, not be made of metal. If the fencing does have metal components, these should be grounded.

There is a note on several pages of the drawings we are asking you to change. The note states:

"Puget Sound Energy Easement A.F. No. 51178 unplotable and undetermined width location and size determined by extending the easement from the Skoglund property as agreed by PSE."

This note is inaccurate in that PSE did not agree to that determination, it is plottable and has a determined width and location as evidenced by the survey "PSE RIGHT-OF-WAY EXHIBIT FOR SULTAN 144, LLC, produced by Concept Engineering, Inc. Please reference your survey in this note, remove all but the reference to the Auditor's File Number, or remove the note.

Additionally, Puget Sound Energy is asking you to include the following language with the notes on the plat, primarily as public notice of the proximity of and conditions associated with PSE's easement and the Consent:

*Transmission or distribution lines have been or will be constructed, operated, and maintained within the Puget Sound Energy (PSE) easement area. At no time shall PSE's existing transmission line easement (shown hereon) be used for storage of flammable or volatile material or placement of any buildings or other structures, including but not limited to the following: decks, patios, septic drainfields, and outbuildings of any nature. At no time shall PSE's access to the transmission lines or structures along the easement area be permanently blocked off or unduly restricted.*

*The developer or future lot owners must pay for any and all costs associated with changes in vertical line clearance, re-stabilization of any electrical structure or anchor, or facilities access as a result of uses that do not comply with PSE conditions or restrictions outlined hereon.*

*PSE's facilities may require tree and brush cutting within and adjacent to the easement right-of-way. PSE retains the right to cut, remove and dispose of any and all brush, trees, and other vegetation upon the easement area. PSE shall also have the right to control, on a continuing basis and by any prudent and reasonable means, the establishment and growth of bushes, trees and other vegetation upon the easement areas which, in the opinion of PSE, interfere with the exercise of PSE rights or create a hazard to PSE's systems. PSE shall have the right to cut, trim, remove and dispose of any trees located on the property outside of the easement area, which could, in PSE's sole judgment, interfere with or create a hazard to PSE's systems. PSE shall, prior to the exercise of such rights, identify such trees and make a reasonable effort to give prior notice that such trees will be cut, trimmed, removed or disposed of (except that PSE shall have no obligation to identify such trees or give such prior notice when trees are cut, trimmed, removed or otherwise disposed of in response to emergency conditions). Owners shall be entitled to no compensation for trees cut, trimmed, removed or disposed of, except for the actual market value of merchantable timber (if any) cut and removed from the property by PSE. All shrubs and trees to be situated in the easement area must be of a low-growing variety that normally do not exceed 15 feet in height at maturity.*

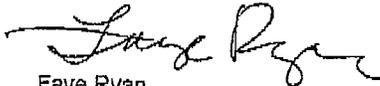
I am including the Consent for Use document for Greens Estates with this letter. Please sign and notarize the document and return it to me at:

Puget Sound Energy  
Attn: ROW Dept.  
1700 East College Way  
Mount Vernon, WA 98273

Also, please send a full preliminary plan set with the changes PSE has requested. We will finalize the Consent after these changes have been made.

If you have any questions, concerns or suggestions regarding the consent or the language above, please call me at 360-424-2959.

Sincerely,



Faye Ryan  
Real Estate Representative  
Northern Region

**RETURN ADDRESS:**

**Puget Sound Energy, Inc.  
Attn: ROW Department  
1700 East College Way  
Mount Vernon, WA 98273**

**CONSENT FOR USE OF PUGET SOUND ENERGY, INC.  
TRANSMISSION LINE RIGHT-OF-WAY**

This Agreement is made between **Puget Sound Energy, Inc.**, "PSE" herein, and **Sultan 144, LLC** "Owner/Company" herein:

PSE plans and reserves the right to build transmission facilities within its right-of-way in the Northeast quarter of the Northwest quarter of Section 33, Township 28 North, Range 8 East, W.M. The location and extent of PSE's easement rights, "Easement Area" herein, are more specifically described in the document recorded under Auditor's File Number 511778 and supported by maps on file with the Real Estate Department at Puget Sound Energy.

The Owner/Company desires the consent of PSE to utilize portions of the Easement Area in connection with the development of the proposed plat of Greens Estates, more particularly for the following described uses:

- A. Crossing the Easement Area with portions of three improved roadways, 324<sup>th</sup> Avenue SE, 325<sup>th</sup> Court SE and 326<sup>th</sup> Court SE together with non-metallic storm sewer, sanitary sewer, water lines and other residential infrastructure.
- B. Constructing a portion of roadway, 134<sup>th</sup> Place SE, linearly within and extending no more than 25 feet into the easement area as measured from the Northern boundary of said easement area for an approximate distance of 500 feet. No utilities or infrastructure other than said road are to be constructed in the easement area.
- C. Creating active open space within the remaining easement area.

All as shown on the plans dated \_\_\_\_\_, marked Exhibit "A" attached hereto and made a part hereof.

With this consent, Owner/Company agrees to:

- A. Provide a 20 foot wide apron/transition from the West side of 324<sup>th</sup> Avenue SE, the East side of 325<sup>th</sup> Court SE and the East side of 326<sup>th</sup> Court SE, with curb cut or rolled curb, to allow heavy line truck access (H2O loading).
- C. Place no fire hydrants, street lighting, or structures of any kind within the easement area.
- D. Owner/Company, on behalf of itself, its successors and assigns, hereby covenants not to directly or indirectly, in any form or in any manner, oppose, protest, inhibit, prevent, or otherwise impair PSE's exercise of any right granted hereunder, without limitation, including rights granted by easement, and specifically including Grantee's right to upgrade or construct transmission facilities. Without limiting the generality of the foregoing, Owner/Company, on behalf of itself, its successors and assigns, hereby covenants not to participate, directly or indirectly, in any appeal of the issuance of any governmental approval or environmental documents necessary for or related to all or any part of rights granted by easement. Grantee may, in its sole discretion, seek specific performance of this covenant (including without limitation an injunction) against Owner/Company, and Owner/Company's successors and assigns, in any court with jurisdiction. Owner/Company and PSE intend these covenants to run with the land, to bind all successors and assigns of Owner/Company, and inure to the benefit of all PSE's successors and assigns.

As between the parties, it is mutually agreed that the Owner/Company may utilize the Easement Area for the above described uses, subject to the following terms and conditions:

1. If such use of the Easement Area should at any time become a hazard to the presently installed electrical facilities of PSE, or electrical facilities added or constructed in the future, or should such use interfere with the construction, operation, inspection, maintenance or repair of the same or with PSE's access along such Easement Area, the Owner/Company will be required to correct such hazard or interference, at Owner/Company's expense.
2. No filling and/or grading within said easements shall be accomplished in such manner as to reduce vertical distance between the ground surface and PSE's wires or jeopardize the lateral support of any of PSE's poles or anchors. No excavation will be permitted within fifty (50) feet of said poles or anchors. Owner/Company must pay for any and all costs related to changing the vertical line clearances in any way as a result of their uses.
3. A minimum clearance of twenty (20) feet from all power lines must be observed in any activities related to such uses, including the operation of equipment.
4. At no time shall the Easement Area be used for the storage of flammable or volatile material or the placement of any buildings or any other structures, including, but not limited to, the following: Decks, patios, and out buildings of any kind or nature.
5. At no time shall PSE's access to transmission line structures along the Easement Area be permanently blocked off or unduly restricted. Fences constructed within the Easement Area shall have removable sections and/or gates to facilitate vehicular access at any and all times. Landscaping must not interfere with such access. Any construction within the said Easement Area must be consistent with the above-mentioned restrictions.
6. Transmission and distribution lines have been or will be constructed, operated, and maintained within the Easement Area. Said facilities may require tree and brush cutting within and adjacent to the easement right-of-way. PSE retains the right to cut, remove and dispose of any and all brush, trees, and other vegetation presently existing upon the Easement Area. PSE shall also have the right to control, on a continuing basis and by any prudent and reasonable means, the establishment and growth of brush, trees and other vegetation upon the Easement Area which, in the opinion of PSE, interfere with the exercise of PSE rights or create a hazard to PSE's systems.
7. PSE shall have the right to cut, trim, remove and dispose of any trees located on the Property outside the Easement Area, which could, in PSE's sole judgment, interfere with or create a hazard to PSE's systems. PSE shall, prior to the exercise of such rights, identify such trees and make a reasonable effort to give Owner/Company prior notice that such trees will be cut, trimmed, removed or disposed of (except that PSE shall have no obligation to identify such trees or give Owner/Company such prior notice when trees are cut, trimmed, removed or otherwise disposed of in response to emergency conditions). Owner/Company shall be entitled to no compensation for trees cut, trimmed, removed or disposed of except for the actual market value of merchantable timber (if any) cut and removed from the Property by PSE.
8. All shrubs and trees to be situated in the Easement Area must be of low growing varieties which normally do not exceed fifteen (15) feet in height at maturity.
9. The Owner/Company releases PSE and will assume all risk of loss, damage or injury, which may result from such use of the Easement Area, except the portion of such loss, damage or injury caused by or resulting from the negligence of PSE or PSE's agents or employees. Any damage to PSE's facilities caused by or resulting from such use of the Easement Area may be repaired by PSE and the actual cost of such repair shall be charged against and paid by the Owner/Company. The Owner/Company further agrees to defend, indemnify and hold harmless PSE, its agents and employees from all loss, damage or injury to any person whomsoever to the extent such loss, damage or injury results from the use of the Easement Area by the Owner/Company, their servants, agents, employees and contractors.
10. PSE does not own the land within the Easement Area. If you are not the Owner of such lands, you must acquire rights for such use from the landowner.
11. The Owner/Company must notify PSE's Construction Management Service Center at least 48 hours prior to the commencement of any and all construction activities related to such uses and to coordinate the installation of protective barriers around power poles.
12. The terms and conditions herein contained shall be binding upon the parties hereto, their respective successors and assigns.

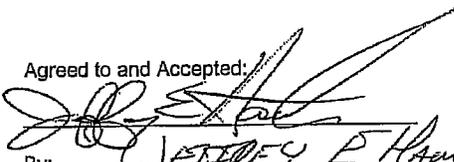
Approved:

PUGET SOUND ENERGY, INC.

By: \_\_\_\_\_  
Real Estate

Date: \_\_\_\_\_

Agreed to and Accepted:

  
By: JEFFREY E HAMILTON  
CEO OF SULTAN 144, LLC  
Date: 12/13/07

STATE OF WASHINGTON )  
 ) SS  
COUNTY OF )

On this \_\_\_\_\_ day of \_\_\_\_\_, 2007, before me, the undersigned, a Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared \_\_\_\_\_, to me known to be the person who signed as \_\_\_\_\_ for PUGET SOUND ENERGY and who executed the within and foregoing instrument and acknowledged said instrument to be \_\_\_\_\_ free and voluntary act and deed for the uses and purposes therein mentioned; and on oath stated that \_\_\_\_\_ was authorized to execute the said instrument as \_\_\_\_\_ of said PUGET SOUND ENERGY.

IN WITNESS WHEREOF I have hereunto set my hand and official seal the day and year first above written.

\_\_\_\_\_  
(Signature of Notary)

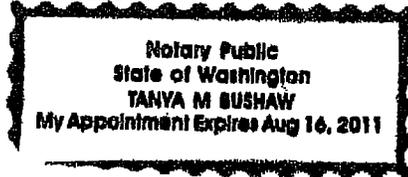
\_\_\_\_\_  
(Print or stamp name of Notary)  
NOTARY PUBLIC in and for the State of Washington,  
residing at \_\_\_\_\_  
My Appointment Expires: \_\_\_\_\_

Notary seal, text and all notations must not be placed within 1" margins

STATE OF WASHINGTON )  
 ) ss  
COUNTY OF King )

On this 13<sup>th</sup> day of December, 2007, before me, the undersigned, a Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared Jeffrey E. Hamilton, to me known or proved by satisfactory evidence to be the person who signed as CEO of SULTAN 144, LLC, the limited liability company that executed the within and foregoing instrument, and acknowledged said instrument to be his/her free and voluntary act and deed and the free and voluntary act and deed of said limited liability company for the uses and purposes therein mentioned; and on oath stated that he/she was authorized to execute the said instrument on behalf of said limited liability company.

IN WITNESS WHEREOF I have hereunto set my hand and official seal the day and year first above written.



Tanya Bushaw  
(Signature of Notary)  
Tanya Bushaw  
(Print or stamp name of Notary)  
NOTARY PUBLIC in and for the State of Washington,  
residing at Seattle, WA  
My Appointment Expires: 8/16/2011

Notary seal, text and all notations must not be placed within 1" margins

# **EXHIBIT 10**



# **EXHIBIT 11**



# City of Sultan City Administrator

e-mail: rick.c@cityofsultan.com  
319 Main Street – P.O. Box 1199  
Sultan, WA 98294  
Phone (360) 793-2231  
Fax (360) 793-3344

## FAX COVER SHEET

DATE: 1-25-06

TO: FRANK LEMMOS

FAX NO: 425-482-2893

FROM: Rick Cisar

NO. OF PAGES: 3  
(Including Cover Sheet)

MESSAGE:

FRANK  
Pre-Cum comments from Jon STACE  
Rick

The information contained in this facsimile is intended for the use of the addressee only. If you have received this facsimile in error, please notify the sender by telephone. This communication should not be copied or distributed and the original should be destroyed.

If you do not receive all pages of this fax, please contact Cyd Donk at (360) 793-2231 ext 228.  
Thank You!

Plat of Skoglund Estates  
Preliminary Civil Plan Review  
Jon R. Stack, P.E.  
January 20, 2005

#### **DRAINAGE ANALYSIS**

- The DOE Manual, February 2005, shall be used.
- All trench backfill in the right-of-way will be imported crushed or gravel borrow. (See on-site soils discussion below).
- Provide enclosure fence for open ponds in accordance with Section 3109, 2003 International Building Code.

#### **STREETS**

- Street widths with sidewalks on easements meet current planning.
- The soils report indicates that the majority of the site is underlain by silt that is prevalent in other projects in the general area. The soils report is deficient in that there is no engineering basis for the recommended structural section. Current designs submitted by other engineer/geo-techs have not addressed the issue that 95% density cannot be obtained in the sub-grade due to the propensity of this material to retain excess moisture. Therefore a design using 90% subgrade densitys could be evaluated as to how much and what type of imported materials are required or another option is cement-treated base which was used at Sky Harbor and has been approved for Timber Ridge. In any case a more vigorous effort must be made to identify and justify the required structural section.
- Following are the street designations to match the City's grid:
  - Road A – 328<sup>th</sup> Avenue SE
  - Road B – 133<sup>rd</sup> Place SE
  - Road C – 134<sup>th</sup> Place SE
  - Road D – 135<sup>th</sup> Place SE
- Since the City's future plans include extending 138<sup>th</sup> Street SE easterly to Rice Avenue, Utility Tract 988 should be deeded to the City along with a street easement consisting of the southerly 30 feet of Lot 2.

#### **WATER SYSTEM**

- Water system improvements shall conform with Water and Sewer Engineering Standards, Sultan, March 2004.

- All watermains are ductile iron and require polyethylene encasement (refer to page W5-2).
- Provide 12", CI52 extension on 132<sup>nd</sup> Street SE from Sultan Basin Road to the easterly corner of the proposed plat, approximately 1,700 LF. Provide in-line valves at 600 foot spacing and hydrants at 300 foot spacing (refer to pages W3-3 and W3-4, Engineering Standards).
- 8", CI 52 waterline with hydrants and valves is adequate within the plat.
- All trench backfill in the right-of-way will be imported crushed or gravel borrow. (See above soils discussion).

#### **SANITARY SEWER SYSTEM**

- Sewer improvements shall conform with the City's Standards for Water and Sewer, March 2004.
- All trench backfill will be imported crushed or gravel borrow.(See existing soils discussion under streets).
- Standard depth of sewer manhole is 8 feet.
- Manholes on unimproved easements shall project 12" above finished ground. Joint wrap shown on standard plan S-17 and S-18 is not required for this project.

# **EXHIBIT 12**

January 17, 2008



14201 NE 200th Street

Suite 100

Woodinville, WA 98072

Voice (425) 806-1869

Fax (425) 482-2893

Attn: Mr. Brad Collins,  
Community Development Manager  
City of Sultan  
319 Main Street, Suite 200  
Sultan WA 98294

**Re: Greens - Fire Marshall Letter**  
Proposed Plat of Greens Estates  
Single Family Residential Planned Unit Development

Dear Mr. Collins:

Attached is memo received from the Snohomish County Marshall from the review of the Greens Project. Fire Marshall Ron Tangen was provided plans dated January 16, 2007. The only change to the plans dated December 19, 2007 was a temporary Turn around was added to the end of 324<sup>th</sup> Ave SE per Mr. Tangen's request.

The fire Marshall reviewed this entire project for Fire Apparatus Access including the proposed Pan Handle Lots and road circulation. As was stated in the attached memo the proposed site plan meets the County's Code.

Please review the provided information above and contact me with any questions or comments you may have.

Sincerely,

LAND DEVELOPMENT CONSUSLTANTS, INC.

Mark Villwock, P.E.  
Project Engineer

**Snohomish County**  
**PLANNING & DEVELOPMENT SERVICES**

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M/S #604

**M E M O R A N D U M**

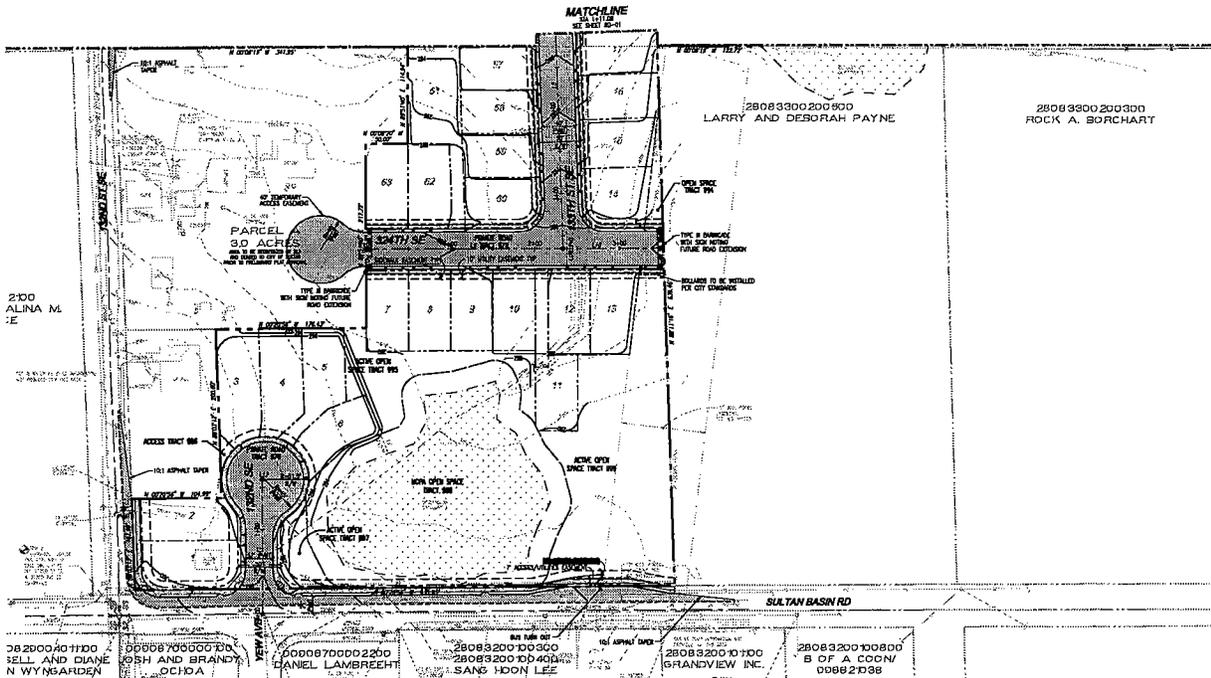
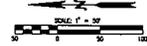
**TO:** Mark Villwock  
**FROM:** Ron Tangen, Fire Review *RT*  
**DATE:** January 17, 2008  
**SUBJECT:** Greens Estates

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Fire apparatus access as depicted meets the minimum requirements of Snohomish County Code 30.53A.512 and we would not have any further requirements. **Road grades shall not exceed 15%.**

Fire apparatus access shall not be obstructed in any manner including the parking of vehicles. You shall provide signage or pavement striping on both sides of the access road if it is less than 28' in width one side of the road if it is 28' wide but less than 36' wide stating "NO PARKING – FIRE LANE" to ensure access availability. If pavement striping is used the curbs shall be painted yellow with black lettering.

A PORTION OF THE NW 1/4 OF SEC 33, T24N 28R, E6W, CITY OF SULTAN, SNOHOMISH COUNTY, WASHINGTON



**CENTERLINE TABLE**

LINE NO.	BEARING	DISTANCE	LINE NO.	BEARING	DISTANCE
1	N 89°00'00" W	53.00	17	S 89°00'00" E	53.00
2	N 89°00'00" W	53.00	18	N 89°00'00" E	53.00
3	N 89°00'00" W	53.00	19	N 89°00'00" E	53.00
4	N 89°00'00" W	53.00	20	N 89°00'00" E	53.00
5	N 89°00'00" W	53.00	21	N 89°00'00" E	53.00
6	N 89°00'00" W	53.00	22	N 89°00'00" E	53.00

CHAIN NO.	BEARING	DISTANCE	CHAIN NO.	BEARING	DISTANCE
1	N 89°00'00" W	53.00	17	S 89°00'00" E	53.00
2	N 89°00'00" W	53.00	18	N 89°00'00" E	53.00
3	N 89°00'00" W	53.00	19	N 89°00'00" E	53.00
4	N 89°00'00" W	53.00	20	N 89°00'00" E	53.00
5	N 89°00'00" W	53.00	21	N 89°00'00" E	53.00
6	N 89°00'00" W	53.00	22	N 89°00'00" E	53.00

**DISCLAIMER:**  
 PROFESSIONAL SURVEY INFORMATION CONTAINED ON THESE PLANS HAS BEEN PROVIDED BY GREEN ENGINEERING, INC. AND GREEN ENGINEERING, INC. DOES NOT WARRANT THE ACCURACY OR COMPLETENESS OF THE DATA. ANY DISCREPANCIES FOUND BETWEEN WHAT IS SHOWN ON THESE PLANS AND WHAT IS FOUND IN THE FIELD SHOULD BE BROUGHT IMMEDIATELY TO THE ATTENTION OF THE ENGINEER.



**REVISIONS**

NO.	DATE	DESCRIPTION
1	08/11/11	ISSUED FOR PERMIT
2	08/11/11	ISSUED FOR PERMIT
3	08/11/11	ISSUED FOR PERMIT
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100	08/11/11	ISSUED FOR PERMIT

**LDC**  
 Land Development Consultants, Inc.  
 11111 1st Avenue, Suite 100, Everett, WA 98203  
 Phone: 425-771-1111 Fax: 425-771-1112  
 www.ldcinc.com

**SULTAN 144, LLC**  
**GREENS ESTATES**  
 PRELIMINARY ROAD AND GRADING PLAN

**RD-02**

Sheet 5 of 14

# **EXHIBIT 13**

**Patrick Mullaney**

---

**From:** Ryan, Faye [faye.ryan@pse.com]  
**Sent:** Wednesday, February 13, 2008 5:03 PM  
**To:** Mark Villwock  
**Subject:** Greens Estates

Mark,

We have issued a consent to Sultan 144, LLC for certain uses within the transmission easement that passes through their plat development. Specific issues were addressed in that consent. At the time it was signed we had not been provided with plans showing placement of recreational equipment within the easement. I spoke with you about the equipment you plan to place: that the basket ball hoop was to be made of materials that would not attract draw from the overhead line; that there is no metal in the equipment, including fire pits, chairs, tables, benches or trash receptacles. Finally, PSE refers to paragraphs 1 and 4 of the consent agreement: *"If such use of the Easement Area should at any time become a hazard to the presently installed electrical facilities or PSE, or electrical facilities added or constructed in the future, or should such use interfere with the construction, operation, inspection, maintenance or repair of the same or with PSE's access along such Easement Area, the Owner/Company [including successors and assigns] will be required to correct such hazard or interference, at Owner/Company's expense."* and *"At no time shall the Easement Area be used for the storage of flammable or volatile materials or the placement of any buildings or any other structures, including, but not limited to, the following: Decks, patios, and out buildings of any kind or nature."* We are satisfied at this time with the placement of recreational equipment under the conditions we discussed and the express understanding that if that equipment interferes with the placement of our transmission lines or proves to be a hazard because of its proximity to the transmission lines, the equipment will need to be removed. At this time PSE has no facilities within the easement area and does not object to its use as shown on the plans.

If you, or the City of Sultan, have any questions, please feel free to contact me.

Faye Ryan  
PUGET SOUND ENERGY  
Real Estate Representative, Northern Region  
1660 Park Lane, Burlington, WA 98233  
Ph: 360-766-5455 (84-5455)  
Fax: 360-766-5503 (84-5503)

2/21/2008