

October 8, 2019

Community Development Department

C/O Shoreline Administrator

616 NE Forth Avenue

Camas WA 98607



Re: Shoreline Substantial Development Permit

Haley Short Plat (File#SHOR19-02)

Dear Ms. Hollenbeck:

It has recently come to our attention that the application submitted by Planning Solutions Inc. with respect to the Haley Short Plat (File#SHOR19-02) omitted critical information necessary for your consideration of the application.

The application made no reference to the Covenant Running with the Land signed by Dale and Leta Anderson on September 7, 1993, that prohibits the division of the lots that the applicant is seeking to divide. See Exhibit 1. The covenant is pursuant to the binding Resolution No 1993-08-01 of the Board of County Commissioners of Clark County.

In 1992, Dale Anderson sought to have the property which is the subject of the application rezoned from agricultural to residential. On August 4, 1993, the Clark County Commissioners granted that request in Resolution No. 1993-08-01 subject to agreement between Dale Anderson and the Prosecuting Attorney. See, Section 2.1 of the resolution contained in Exhibit 2. The agreement between Dale Anderson and the Prosecuting Attorney is contained in the Concomitant Rezone Agreement and Covenant Running with the Land. Section 2 of the document provides the conditions referred to in Resolution No. 1993-08-01. Paragraph 2(a) states:

Placement of a note on the face of the final Plat which states: "Pursuant to Resolution No. 1993-08-01, **no further divisions of these lots shall be proposed**", emphasis added.

The Concomitant Rezone Agreement and Covenant Running with the Land was signed by Dale and Leta Anderson on September 7, 1993 and is recorded at Clark County Auditors File 9309140312 at 949. The Clark County Resolution, the Covenant and associated documents are contained in the Clark County Auditors File 9309140312, pages 942 through 955. The note referred to in the Covenant is on the recorded plat Book 3, page 253, page 2 note "I" in the records of Clark County. The note may be difficult to see when looking at a page size reproduction of the plat.

We request that the attached evidence be included in the administrative record of your consideration of the Haley Short Plat. Since this evidence is in the public domain and readily available to you and your staff considering the submitted application for the Haley Short Plat, this information should be considered timely.

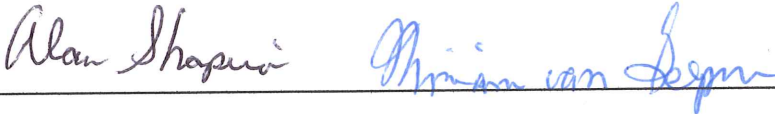
We note that the covenant also requires in Section 2(c) and (d) that turn outs for emergency vehicles be provided. It is unclear whether those turn outs were provided. Since this is a matter of public safety, we ask that you request the appropriate City of Camas department to do a site review to determine if this condition was satisfied. Alternatively, we would be happy to contact the appropriate City of Camas department, if you would let us know the name of the department and a contact person.

Conclusion

The request in the application for the Haley Short Plat on behalf of Dale and Leta Anderson is contrary to Resolution No 1993-08-01 of the Board of County Commissioners of Clark County and the Concomitant Rezone Agreement and Covenant Running with the Land that was signed by Dale and Leta Anderson on September 7, 1993. Therefore, the request should be denied.

If you have any questions, please call Alan Shapiro at (360) 844-0063 or Miriam van Gerpen at (360) 216-9266.

Thank you for your consideration.



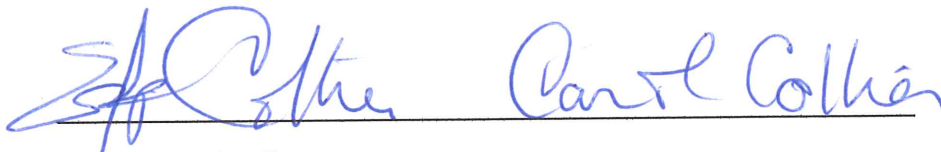
Alan Shapiro and Miriam van Gerpen
4442 SW 5th Avenue, Camas WA 98607



Keith and Krystal Scott
3920 SW 5th Avenue, Camas WA 98607



Steve Crook and Minou Chau
4110 SW 5th Avenue, Camas WA 98607



Skip and Carol Collier
4308 SW 5th Avenue, Camas WA 98607



Vincent and Helen Do
4412 SW 5th Avenue, Camas WA 98607



Jordan Naydenov
5030 SW 5th Avenue, Camas WA 98607.

Exhibit 1

*Official
Agreement*

CONCOMITANT REZONE AGREEMENT
AND
COVENANT RUNNING WITH THE LAND
DALE E. ANDERSON
REZONE #92-16-813

THIS AGREEMENT is entered into by and between CLARK COUNTY, WASHINGTON, (hereinafter "County") and DALE E. ANDERSON, (hereinafter referred to as "Applicant").

WHEREAS, Applicant is the owner of certain real property located within Clark County, Washington, the legal description of which is attached hereto as Exhibit "A"; and,

WHEREAS, Applicant has applied for a rezone from Agriculture (AG) to Suburban Residential (RS); REZONE #92-16-813; and,

WHEREAS, Applicant intends to short plat the aforementioned real property into two lots approximately 1.2 acres in size (SP #92-071-813); and,

WHEREAS, Applicant covenants to Clark County that if the property described in Exhibit "A" is rezoned from "AG" to "RS" and the Short Plat (SP 92-071-813) is approved, that the property will be used only in accordance with this Covenant and subject to the conditions herein described; and,

WHEREAS, Applicant covenants and agrees to County on behalf of itself and all of its heirs, assigns and successors in interest into whose ownership the Property might pass, as follows, it being specifically agreed to that this is a covenant which touches, concerns, enhances, benefits, and runs with the real property of Applicant;

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NOW THEREFORE, THE PARTIES AGREE:

1. Owner. Applicant, and his wife, Leta L. Anderson are the sole and exclusive owners of the real property situated in Clark County, Washington, legally described in Exhibit "A" attached hereto.

2. Conditions. The rezone shall be subject to the following conditions:

(a) Placement of a note on the face of the final plat which states:

"Pursuant to Resolution No. 1993-08-01, no further divisions of these lots shall be proposed."

(b) Two turnouts will be provided to accommodate vehicular traffic. The specific dimensions of the turnouts will be determined during review of the Short Plat (SP 92-071-813), but will substantially conform to the conceptual plan which is attached hereto and incorporated herein by reference as Exhibit "B".

(c) Further accommodations will be made for vehicular traffic. A turnaround will be provided on proposed lot 2 which will facilitate the safe turning movements of emergency vehicles. Specific design of the turnaround will be determined during review of the Short Plat (SP 92-071-813), but will substantially conform to the conceptual plan attached as Exhibit "B".

(d) Placement of a note on the face of the final plat which states:

"The turnaround provided on Lot 2 is intended for emergency vehicle use only and shall not be used for parking purposes, and further, shall be unobstructed by all vehicles at all reasonable times."

(e) Applicant will connect to public water and sewer

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when these services are available to these properties. Applicant further agrees, as requested by the City of Canas, to execute a "Waiver of Right to Protest" agreement for formation of a Local Improvement District for water, sewer, street, and storm drain improvements.

(f) Applicant shall obtain a crossing permit for the newly created lot, from the Burlington Northern Railroad prior to final short plat approval.

(g) The zone change shall go into effect immediately upon approval by, and filing with, the Board of County Commissioners this fully executed covenant running with the land. The zone change shall apply to the entire request site and shall be irrevocable except by action by the Clark County Board of Commissioners after public hearing and notice.

3. Remedies. This Covenant may be enforced by the County in any or all of the following ways at its option:

(a) By, the County's refusal to issue either preliminary/final short plat approval, building permits and/or occupancy permits in the case that this Agreement has not been fully observed in the construction, development and use of the real property by Applicant, or any of its successors in interest, or by the revocation of any such permits for the failure of Applicant, or its successors to observe any of the provisions of this Agreement made pursuant thereto, but said revocation may only occur after a hearing by the Board of County Commissioners, or the County Land Use Hearings Examiner for which ten (10) days notice by publication in a paper of general circulation has been given as well as to

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affected parties by registered mail, return receipt requested and/or certified mail;

(b) By bringing a suit in any court of competent jurisdiction for monetary damages to cover the expected cost of the County's performance of any and all obligations covenanted herein and which are to be performed by the County, or its direction, on behalf of any obligor;

(c) For injunction to cause specific performance of this Agreement, or for other appropriate relief as may be deemed desirable by County;

(d) With regard to any of the aforementioned remedies, Applicant agrees to be responsible for any and all attorney's fees and costs expended by the County in enforcing any of these provisions respective to their own parcels.

4. Binding. This Covenant shall remain in full force and effect until amended, modified or terminated by the action of Applicant and Clark County in zoning proceedings appropriate for that purpose. Nothing in this Covenant shall be construed as limiting in any way the authority of Clark County, or its governmental successors, from approving amendments or modifications to this Covenant at the request of Applicant, its heirs, assigns or successors in interest. It is expressly provided that this Covenant may be amended, modified or terminated solely by the approval of Clark County, or its governmental successors, at the request of Applicant, its heirs, assigns, or successors, and under no circumstances shall any approval by any other person or entity be required in order for Applicant to amend, modify or terminate

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this Covenant in whole or in part.

5. Filing. That a copy of this Agreement will be filed with the Clark County Auditor in their recording department so as to appear as a covenant within the chain of title for the real property, as the sole and exclusive transfer of an interest from Applicant prior to the filing of this Covenant.

6. Severability. That if any provision of this Agreement, or the application of the provision to any person or circumstance, is declared invalid, then the rest of the Agreement, or the application of the provision to other persons or circumstances, shall not be affected.

7. Successors. This Agreement and all of its provisions, and each of them, shall be binding upon Applicant, and any and all of its heirs, assigns, and successors in interest into whose respective ownership the real property may pass, and further, any obligations made herein by Applicant shall be enforceable against all of their heirs, assigns and successors in interest into whose ownership the real property may pass.

DATED this 7 day of September, 1993

APPLICANT:

Dale E. Anderson
DALE E. ANDERSON

Leta L. Anderson
LETA L. ANDERSON

APPROVED AS TO FORM ONLY:

Richard S. Lowry
RICHARD S. LOWRY
CLARK COUNTY CHIEF CIVIL DEPUTY

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Exhibit 2

930:140312

RESOLUTION NO. 1993-08-01

A RESOLUTION relating to land use and zoning; reversing the final order of the Clark County Land Use Hearings Examiner in the Matter of Rezone 92-16-813, Dale Anderson.

WHEREAS, an application has been submitted for rezone approval for 2.24 acres from Agriculture (AG) to Suburban Residential (RS) Zoning Districts for land located at 21111 SE Evergreen Highway, south of the Burlington Northern Railroad tracks, immediately west of the City of Camas boundary and north of the Columbia River; Tax Lot 19 (127155), located in the SE 1/4 of Section 8, Township 1 North, Range 3 East of the Willamette Meridian; and

WHEREAS, by final order of the Clark County Land Use Hearings Examiner dated December 11, 1992, said application was denied; and

WHEREAS, an appeal was filed by the applicant on December 11, 1992 and an automatic appeal of said examiner decision was scheduled before the Board; and

WHEREAS, the Board held its own duly advertised public meeting on January 6, 1993;

BE IT ORDERED AND RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF CLARK COUNTY, STATE OF WASHINGTON, as follows:

Section 1. Findings of Fact.

1. The automatic appeal public meeting was held for routine review of the rezone, as is done for all rezones in Clark County. The applicant also appealed the Hearing Examiner's decision in a timely manner.

2. The Board of County Commissioners determined that road standards were met through modification of the road standards and the concomitant rezone agreement submitted to the County. Such rezone agreement was reviewed by the Prosecuting Attorney's office and, as amended, satisfied the safety concerns articulated by the staff, Hearing Examiner and Board.

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3. The Board moved and approved that the Hearing Examiner's decision be overturned and the rezone approved with conditions as identified in Section 2, below.

Section 2. Request for Rezone Approval Granted.

The application for rezone from Agriculture (AG) to Suburban Residential (RS) in the case of REZ 92-16-813 (Dale Anderson), is hereby granted with the following conditions:

- 1. The applicant shall adhere to the conditions contained in the concomitant rezone agreement as approved by the Prosecuting Attorney's office, attached hereto; and,
- 2. The applicant must secure a permit for crossing the Burlington Northern railroad tracks as indicated in the letters of appeal; and,
- 3. The Board of County Commissioner's also herein incorporates the supplemental staff report dated November 9, 1992 and memorandum to the Hearing Examiner dated November 17, 1992.

ADOPTED this 4th day of August, 1993.

Attest:

Jane Richards
Clerk to the Board

BOARD OF COUNTY COMMISSIONERS
FOR CLARK COUNTY, WASHINGTON
By *David W. Sturdevant*
David W. Sturdevant, Chair

Approved as to Form Only
ARTHUR D. CURTIS
Prosecuting Attorney

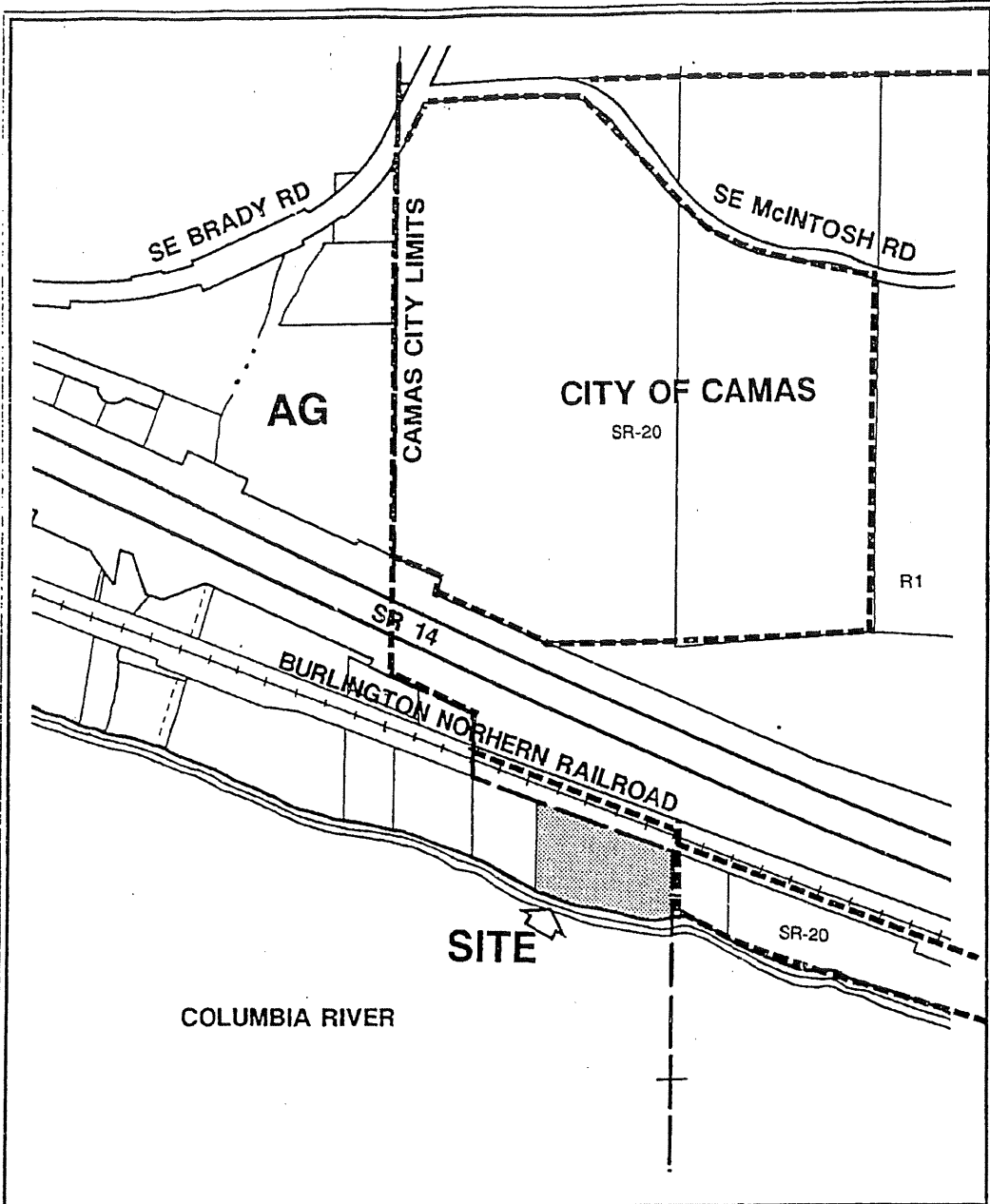
By *Christopher Horne*
Christopher Horne
Deputy Prosecuting Attorney

By _____
Busse Nutley, Commissioner

By _____
John C. Magnano, Commissioner

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CLARK COUNTY DEPARTMENT OF PUBLIC SERVICES
Planning with the future in mind
 PLANNING & DEVELOPMENT REVIEW DIVISION

FILE # REZ 92-16-813 (ANDERSON)

LOCATION: T11N R3E SEC 8

REQUEST: REZONE

EXHIBIT 2

SUBJECT PROPERTY: 

ZONING BOUNDARY:  244

