City of MOUNT VERNON
DEVELOPMENT SERVICES

DATE: July 26, 2017

TO: Mayor Boudreau and City Council

FROM: Rebecca Lowell, Senior Planner

SUBJECT: PRELIMINARY SHORT PLAT APPROVAL 3-YEAR EXTENSION REQUEST, LAND USE NO. PL17-022 SWANSON

RECOMMENDED ACTION:
Staff recommends that Council make a motion to authorize the Mayor to sign the accompanying Resolution regarding the Swanson preliminary short plat three (3) year extension.

INTRODUCTION/BACKGROUND:
The Swanson preliminary Short Plat (SP) was approved by the Development Services Department on March 19, 2010. Please recall that the State Legislature amended the RCWs pertaining to preliminary plat expiration a number of times. The net effect of all of these actions was an expiration date of March 19, 2017 for this short plat.

This short plat was approved for three (3) commercial lots over an approximate 1.46 acre site. The existing residential buildings on the site will remain until the phased development necessitates their removal. The Comprehensive Plan designation is General Commercial (GC) and the site is zoned General Commercial (C-2) District. There are no critical areas on the property. The site addresses are 504 and 512 Poplar Lane and 2119 Urban Avenue; and is shown on the vicinity map below.

VICINITY MAP

FINDINGS/CONCLUSIONS:

In June of 2015, City Council approved Ordinance 3651 that provides a way for preliminary Short Plat approvals to be extended for either one or three years – with conditions. The part of Ordinance 3651 that allows Swanson Short Plat to request a three-year preliminary short plat extension reads as follows:

> *MVMC 16.08.070(C)(2):*
> *C. If the developer fails to receive final approval within the timeframes outlined with the above listed subsections A or B the preliminary short plat approval shall expire unless one of the following requests are submitted to the CEDD and approved by the City Council through a Type V process.*
>
> > *2. An applicant who files a written request to the office of the Community & Economic Development Department may be granted up to a three-year extension for preliminary short plat approvals granted on or before December 31, 2010. There shall be allowed only one three year extension; and this extension shall not be combined with the one year extension allowed within sub-section (1), above. In granting this extension a development agreement consistent with the requirements of RCW 36.70B.170 shall be prepared and approved by the City Council. In granting this extension the Council can require that a development comply with any of the development regulations in effect at the time the extension is requested should these regulations be different than the ones the development is vested to.*

RECOMMENDATION:

Council move to authorize the Mayor to sign the accompanying Resolution that will extend the preliminary short plat approval expiration period for three (3) years (i.e., from March 19, 2017 to March 19, 2020) for the Swanson Short Plat.

ATTACHED:

- Proposed Resolution for Council Consideration
- Proposed Development Agreement
  - Exhibit A: Legal Description of the overall property
  - Exhibit B: Swanson Preliminary Short Plat Maps
  - Exhibit C: Swanson Preliminary Short Plat Report and Decision
  - Exhibit D: Conditions of Preliminary Short Plat Extension Approval from the City's Engineering Division

RESOLUTION NO.

A RESOLUTION OF THE CITY OF MOUNT VERNON, WASHINGTON; ACCEPTING THE DEVELOPMENT AGREEMENT BETWEEN THE CITY OF MOUNT VERNON AND THE ESTATE OF EUGENE ALBERT SWANSON WITH NANCY J. ELLIS AND JOANNE M. STEWART AS THE CO-EXECUTORS OF THE ESTATE TO EXTEND PRELIMINARY SHORT PLAT APPROVAL FOR THE SWANSON PRELIMINARY SHORT PLAT IDENTIFIED BY THE CITY AS PROJECT LU09-037

WHEREAS, the Washington State Legislature has authorized the execution of a development agreement between a local government and a person having ownership or control of real property within its jurisdiction (RCW 36.70B.170 (1)); and

WHEREAS, this Development Agreement by and between the City of Mount and the Developer (hereinafter the "Development Agreement"), relates to the development known as the Swanson Preliminary Short Plat, File No. LU09-037; and

WHEREAS, the City Council approved Ordinance 3651 in June of 2015 providing a mechanism for the possible extension of preliminary plat approvals such as the Swanson Preliminary Short Plat; and

WHEREAS, the Developer has requested approval of a development agreement to extend the timeframe in which the development will have a valid preliminary plat approval consistent with MVMC 16.08.070(C) (2); and

WHEREAS, public notice of City Council's public hearing for consideration of the developer's request to extend preliminary plat approval was published in the Skagit Valley Herald on July 12, 2017; and

WHEREAS, the City held a public hearing regarding the approval of this Development Agreement on July 26, 2017; and

WHEREAS, it is further deemed advisable to record the decisions reached by the Council through the adoption of this resolution;

NOW, THEREFORE,

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MOUNT VERNON:

1. The Recitals and General Provisions found within the accompanying Development Agreement are hereby adopted by reference as if they were fully set forth herein; and,
2. That the City of Mount Vernon will accept the accompanying Development Agreement and its associated exhibits labeled as A through D.

ADOPTED by the City Council of the City of Mount Vernon, Washington, and APPROVED by its Mayor, following a public hearing on the 26th day of July, 2017.

SIGNED IN AUTHENTICATION this ____ day of July, 2017.

_____
Doug Volesky, Finance Director

_____
Jill Boudreau, Mayor

Approved as to form:

_____
Kevin Rogerson, City Attorney

Upon Recording Please Return To:
City of Mount Vernon
PO Box 809
910 Cleveland Avenue
Mount Vernon, WA 98273

DEVELOPMENT AGREEMENT BY AND BETWEEN THE CITY OF MOUNT VERNON AND THE ESTATE OF EUGENE ALBERT SWANSON TO EXTEND THE PRELIMINARY SHORT PLAT VALIDITY TIMEFRAME FOR THE SWANSON SHORT PLAT

THIS DEVELOPMENT AGREEMENT is made and entered into this _____ day of July, 2017, by and between the City of Mount Vernon, a noncharter, optional code Washington municipal corporation, hereinafter the "City," and the estate of Eugene Albert Swanson with Nancy J. Ellis and Joanne M. Stewart as the co-executors of the estate hereinafter the "Developer."

RECITALS

WHEREAS, the Washington State Legislature has authorized the execution of a development agreement between a local government and a person having ownership or control of real property within its jurisdiction (RCW 36.70B.170 (1)); and

WHEREAS, a development agreement must set forth the development standards and other provisions that shall apply to, govern and vest a development, use and mitigation of the development of the real property for the duration specified in the agreement (RCW 36.70B.170(1)); and

WHEREAS, for the purposes of this development agreement, "development standards" includes, but is not limited to, all of the standards listed in RCW 36.70B.170 (3); and

WHEREAS, a development agreement must be consistent with the applicable development regulations adopted by a local government planning under chapter 36.70A RCW (RCW 36.70B.170 (1)); and

WHEREAS, development agreements can establish mitigation measures, development conditions, phasing, and other appropriate development requirements or procedures (RCW 36.70B.170 (3) (c), (g), (h), (j)); and

WHEREAS, this Development Agreement by and between the City of Mount Vernon and the Developer (hereinafter the "Development Agreement"), relates to the development known as Swanson Preliminary Short Plat, File No. LU09-037; and

WHEREAS, the Swanson Preliminary Short Plat development has a street addresses of 2119 Urban Avenue, 504 and 512 Poplar Lane and is located within a portion of the NW ¼ of the NW ¼ of Section 17, Township 34N, Range 04 E, W.M. The Skagit County Assessor identifies the site with the following parcel numbers: P25945, P25764, and P25770 (hereinafter referred to as the "Property"); and

WHEREAS, the Swanson preliminary short plat development received preliminary plat approval on March 19, 2010. Per RCW 58.17.140(3)(a) this preliminary plat expired on March 19, 2017. The development is proposed to consist of three (3) commercial lots being created over the approximate 1.46 acre site; and

WHEREAS, the City Council approved Ordinance 3651 in June of 2015 providing a mechanism for the possible extension of preliminary plat approvals such as the Swanson Preliminary Short Plat; and

WHEREAS, the Developer has requested approval of a development agreement to extend the timeframe in which the development will have a valid preliminary plat approval consistent with MVMC 16.08.070(C) (2); and

NOW, THEREFORE, the parties hereto agree as follows:

GENERAL PROVISIONS

Section 1. *The Development.* The development named Swanson Short Plat received preliminary short plat approval on March 19, 2010. This development consists of three (3) commercial lots being created over the approximate 1.46-acre site. Per RCW 58.17.140(3)(a) this preliminary short plat expired on March 19, 2017.

Section 2. *The Subject Property.* The Project site is legally described in Exhibit A, attached hereto and incorporated herein by this reference.

Section 3. *Definitions.* As used in this Development Agreement, the following terms, phrases and words shall have the meanings and be interpreted as set forth in this Section.

A. "Adopting Resolution" means the Resolution which approves this Development Agreement, as required by RCW 36.70B.200.

B. "Council" means the duly elected legislative body governing the City of Mount Vernon.

C. "Director" means the City's Development Services Director or Public Works Director.

D. "Effective Date" means the effective date of the Adopting Resolution.

E. "Existing Land Use Regulations" means the ordinances adopted by the City Council of Mount Vernon in effect on the Effective Date, including the adopting ordinances that govern the permitted uses of land, the density and intensity of use, and the design, improvement, construction standards and specifications applicable to the development of the Subject Property, including, but not limited to the Comprehensive Plan, the City's Official Zoning Map and development standards, the Design Manual, the Public Works Standards, SEPA, Concurrency Ordinance, and all other ordinances, codes, rules and regulations of the City establishing subdivision standards, park regulations, building standards. Existing Land Use Regulation does not include non-land use regulations, which includes taxes and impact fees.

F. "Landowner" means the party who has acquired any portion of the Subject Property from the Developer who, unless otherwise released as provided in this Agreement, shall be subject to the applicable provisions of this Agreement. The "Developer" is identified in Section 5 of this Agreement.

G. "Project" means the anticipated development of the Subject Property, as specified in Section 1 and as provided for in all associated permits/approvals, and all incorporated exhibits.

Section 4. *Exhibits.* Exhibits to this Agreement are as follows:

Exhibit A – Legal description of the Subject Property.
Exhibit B – Map showing the proposed Swanson Preliminary Short Plat
Exhibit C – Swanson Short Plat Report and Decision
Exhibit D – Conditions of Preliminary Short Plat Extension Approval from the City's Engineering Division

Section 5. *Parties to Development Agreement*. The parties to this Agreement are:

A. The "City" is the City of Mount Vernon, PO Box 809, 910 Cleveland Avenue, Mount Vernon, WA 98273.

B. The "Developer" or Owner is a private enterprise which owns the Subject Property in fee, and whose principal office is located at 2114 Riverside Drive, Suite 202, Mount Vernon, WA 98273, (206) 375-7792.

C. The "Landowner." From time to time, as provided in this Agreement, the Developer may sell or otherwise lawfully dispose of a portion of the Subject Property to a Landowner who, unless otherwise released, shall be subject to the applicable provisions of this Agreement related to such portion of the Subject Property.

D. Project is a Private Undertaking. It is agreed among the parties that the Project is a private development and that the City has no interest therein except as authorized in the exercise of its governmental functions.

Section 6. *Term of Agreement.* This Agreement shall commence upon the effective date of the Adopting Resolution approving this Agreement, and shall continue in force as outlined within Section 10; or unless terminated as provided herein. Following termination or expiration, this Agreement shall have no force and effect.

Section 7. *Preliminary Plat Timeline Extension.*

A. Preliminary Plat Time Limitations. RCW 58.17.140(3)(a) states, "Except as provided by (b) of this subsection, a final plat meeting all requirements of this chapter shall be submitted to the legislative body of the city, town, or county for approval within seven years of the date of preliminary plat approval if the date of preliminary plat approval is on or before December 31, 2014..". The development received preliminary plat approval on March 19, 2010 which means the subject preliminary plat approval expired on March 19, 2017.

B. 2015 MVMC Amendment Related to Preliminary Plat Timeframes. In June of 2015, the Mount Vernon City Council approved amendments to Mount Vernon Municipal Code (MVMC) 16.08.070(C)(2) providing a way that preliminary short plat approvals can be extended for three-years "upon a showing that they have attempted in good faith to submit the final plat within the required period…" In granting an extension the Council can require that a development comply with any of the development regulations in effect at the time the extension is requested should these regulations be different than the ones the development is vested to".

C. Considerations for Preliminary Plat Extension. The City has determined, with the approval of this Development Agreement, that the development regulations that the development is currently subject to shall be amended, as follows:

1. The preliminary short plat shall be amended such that the requirements from the City's Engineering Division that are contained within the accompanying **Exhibit D** are complied with. This means that revised reports and/or plans will need to be submitted to the City for review and approval prior to construction related permits being granted by the City.
2. Additional permit and recording fees shall be paid by the Developer as follows:
    a. $75.00/hour for Engineering, Planning, Fire and Building staff time to review and approve updates/changes to the development plus $150.00 per lot for the new construction drawing review
    b. Fees for Fill & Grade Permit
    c. All other fees contained within the City's fee scheduled adopted within MVMC Chapter 14.15
    d. The developer shall pay all fees associated with having this Development Agreement recorded with the Skagit County Auditor

D. Newly Authorized Preliminary Plat Expiration Date. The City Council with the approval of **Resolution (to be filled in)** concurs with the staff findings outlined above in subsection (C) and is extending the preliminary plat validity timeline **from** March 19, 2017 **to** March 19, 2020.

E. All Other Requirements Not Modified. This development agreement does not change or alter any other approval that the development is subject to; including, but not limited to: the conditions of Resolution 820 or the mitigation measures imposed through the SEPA process with the exception of amendments necessary to comply with the modified development regulations outlined within sub-section 7(C).

Section 8. Default.

A. Subject to extensions of time by mutual consent in writing, failure or delay by either party or Landowner not released from this Agreement, to perform any term or provision of this Agreement shall constitute a default. In the event of alleged default or breach of any terms or conditions of this Agreement, the party alleging such default or breach shall give the other party or Landowner not less than thirty (30) days notice in writing, specifying the nature of the alleged default and the manner in which said default may be cured. During this thirty (30) day period, the party or Landowner charged shall not be considered in default for purposes of termination or institution of legal proceedings.

B. After notice and expiration of the thirty (30) day period, if such default has not been cured or is not being diligently cured in the manner set forth in the notice, the other party or Landowner to this Agreement may, at its option, institute legal proceedings pursuant to this Agreement. In addition, the City may decide to file an action to enforce the City's Codes, and to obtain penalties and costs as provided in the Mount Vernon Municipal Code for violations of this Development Agreement and the Code.

Section 9. Termination. This Agreement shall expire and/or terminate and be of no further force at such time as the Pinnacle Estates final plat is approved by City Council and recorded with the Skagit County Auditor or **March 19, 2020** whichever comes first.

Section 10. Effect upon Termination on Developer Obligations. Termination of this Agreement as to the Developer of the Subject Property or any portion thereof shall not affect any of the Developer's obligations to comply with the City Comprehensive Plan and the terms and conditions or any applicable zoning code(s) or subdivision map or other land use entitlements approved with respect to the Subject Property, any other conditions of any other development specified in the Agreement to continue after the termination of this Agreement or obligations to pay assessments, liens, fees or taxes.

Section 11. Assignment and Assumption. The Developer shall have the right to sell, assign or transfer this Agreement with all their rights, title and interests, and delegate its duties therein to any person, firm or corporation at any time during the term of this Agreement. Developer shall provide the City with written notice of any intent to sell, assign, or transfer all or a portion of the Subject Property, at least 30 days in advance of such action.

Section 12. Covenants Running with the Land. The conditions and covenants set forth in this Agreement and incorporated herein by the Exhibits shall run with the land and the benefits and burdens shall bind and inure to the benefit of the parties. The Developer, Landowner and every purchaser, assignee or transferee of an interest in the Subject Property, or any portion thereof, shall be obligated and bound by the terms and conditions of this Agreement, and shall be the beneficiary thereof and a party thereto, but only with respect to the Subject Property, or such portion thereof, sold, assigned or transferred to it. Any such purchaser, assignee or transferee shall observe and fully perform all of the duties and obligations of a Developer contained in this Agreement, as such duties and obligations pertain to the portion of the Subject Property sold, assigned or transferred to it.

Section 13. **Notices.** Notices, demands, correspondence to the City and Developer shall be sufficiently given if dispatched by pre-paid first-class mail to the addresses of the parties as designated in Section 5. Notice to the City shall be to the attention of both the City Community & Economic Development Director and the City Attorney. Notices to subsequent Landowners shall be required to be given by the City only for those Landowners who have given the City written notice of their address for such notice. The parties hereto may, from time to time, advise the other of new addresses for such notices, demands or correspondence.

Section 14. **Applicable Law and Attorneys' Fees.** This Agreement shall be construed and enforced in accordance with the laws of the State of Washington. If litigation is initiated to enforce the terms of this Agreement, the prevailing party shall be entitled to recover its reasonable attorneys' fees and costs from the non-prevailing party. Venue for any action shall lie in Skagit County Superior Court or the U.S. District Court for Western Washington.

Section 15. **Severability.** If any phrase, provision or section of this Agreement is determined by a court of competent jurisdiction to be invalid or unenforceable, or if any provision of this Agreement is rendered invalid or unenforceable according to the terms of any statute of the State of Washington which became effective after the effective date of the ordinance adopting this Development Agreement, and either party in good faith determines that such provision or provisions are material to its entering into this Agreement, that party may elect to terminate this Agreement as to all of its obligations remaining unperformed.

IN WITNESS WHEREOF, the parties hereto have caused this Development Agreement to be executed as of the dates set forth below:

SIGNED AND APPROVED this ____ day of _____, 2017

OWNER/DEVELOPERS:

Nancy J. Ellis	Joanne M. Stewart
_____	_____
Co-Executor to the Eugene Albert Swanson Estate	Co-Executor to the Eugene Albert Swanson Estate

CITY OF MOUNT VERNON:

By _____
Jill Boudreau, Mayor

Attest:

_____
Doug Volesky, Finance Director

Approved as to form:

_____
Kevin Rogerson, City Attorney

STATE OF WASHINGTON
} ss.
COUNTY OF SKAGIT

I certify that I know or have satisfactory evidence that **Nancy J. Ellis** is the person who appeared before me, and said person acknowledged that he signed this instrument, on oath stated that he was authorized to execute the instrument and acknowledged it as the **Co-Executor of the Estate of Eugene Albert Swanson**, to be the free and voluntary act and deed of said company, for the uses and purposes therein mentioned.

Given under my hand and official seal this _____ day of July, 2017.

(SEAL)

_____
Notary Public
Residing at_____
My appointment expires _____

STATE OF WASHINGTON
} ss.
COUNTY OF SKAGIT

I certify that I know or have satisfactory evidence that **Joanne M. Stewart** is the person who appeared before me, and said person acknowledged that he signed this instrument, on oath stated that he was authorized to execute the instrument and acknowledged it as the **Co-Executor of the Estate of Eugene Albert Swanson**, to be the free and voluntary act and deed of said company, for the uses and purposes therein mentioned.

Given under my hand and official seal this _____ day of July, 2017.

(SEAL)

_____
Notary Public
Residing at_____
My appointment expires _____

EXHIBIT A

Legal Description of Property

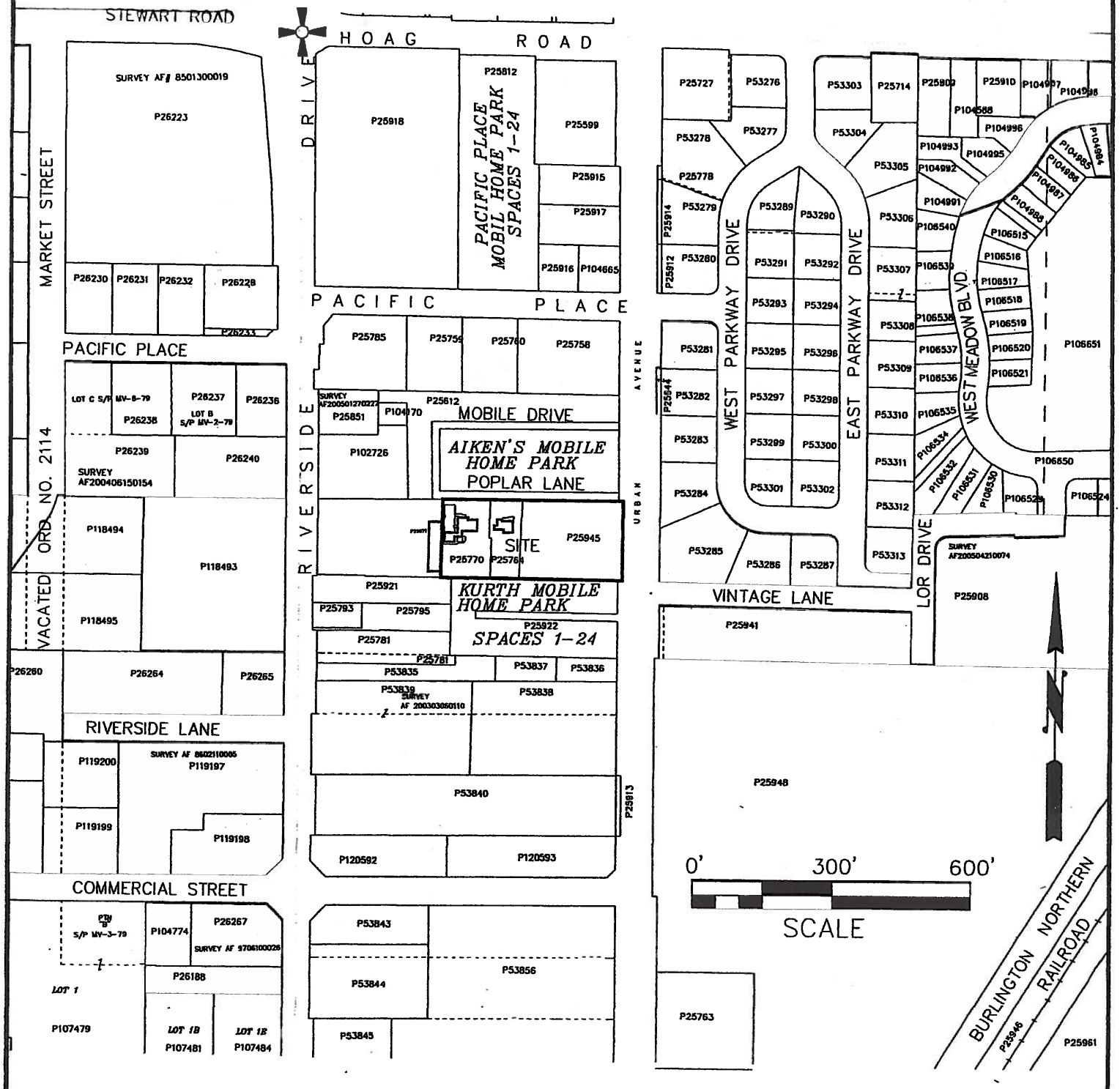
(TO BE INSERTED)

EXHIBIT B

Maps showing the proposed Swanson Preliminary Short Plat
(for illustrative purposes only)

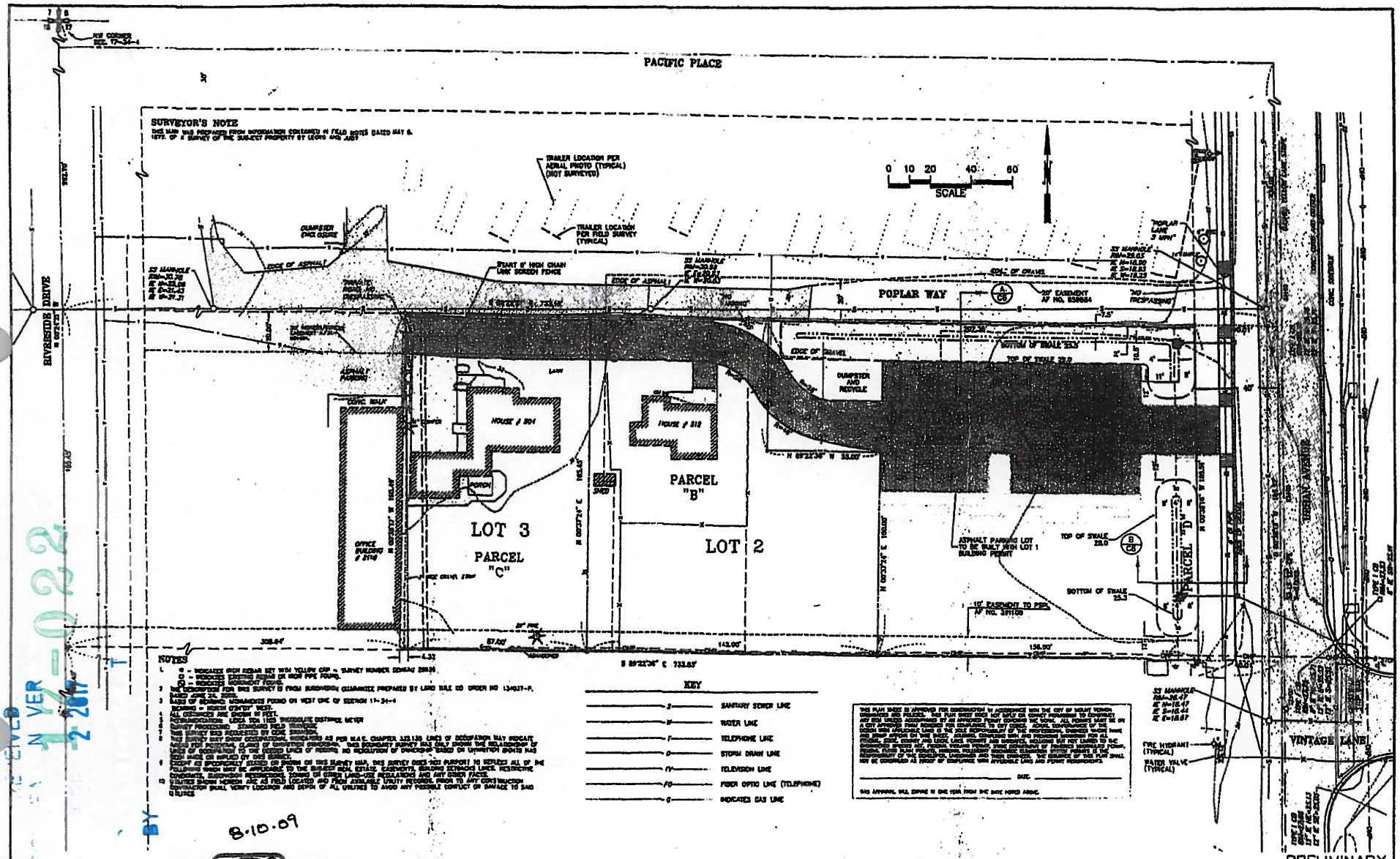
17-022 E.D

D 09-15
LU09-03



NEIGHBORHOOD MAP

EXHIBIT
1



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SIDEBAU ENGINEERING & SURVEYING, PLLC
CIVIL ENGINEERING • LAND SURVEYING • PLANNING
1115 RIVERSIDE DRIVE • SUITE 105
MOUNT VERNON, WA 98273
360-424-6386

NO.	DATE	REVISION	BY	REV.

8-10-09

TOPOGRAPHIC SURVEY AND PRELIMINARY PHASE 1 SITE PLAN

SCALES:
HORIZONTAL : 1" = 20'
VERTICAL : N/A
NOTE: IF THIS SHEET IS LESS THAN 24"x 36" THEN SHEET HAS BEEN REDUCED

SWANSON SHORT PLAT
URBAN AVENUE
SECTION 17, T. 34 N., R. 4 E., W.M.
MOUNT VERNON, WASHINGTON

FIELD BOOK/PG.:	278/21
DATE:	6/7/09
DRAWING:	4604C.DWG
JOB NO.:	4604
SHEET:	C3 OF 6

EXHIBIT 2

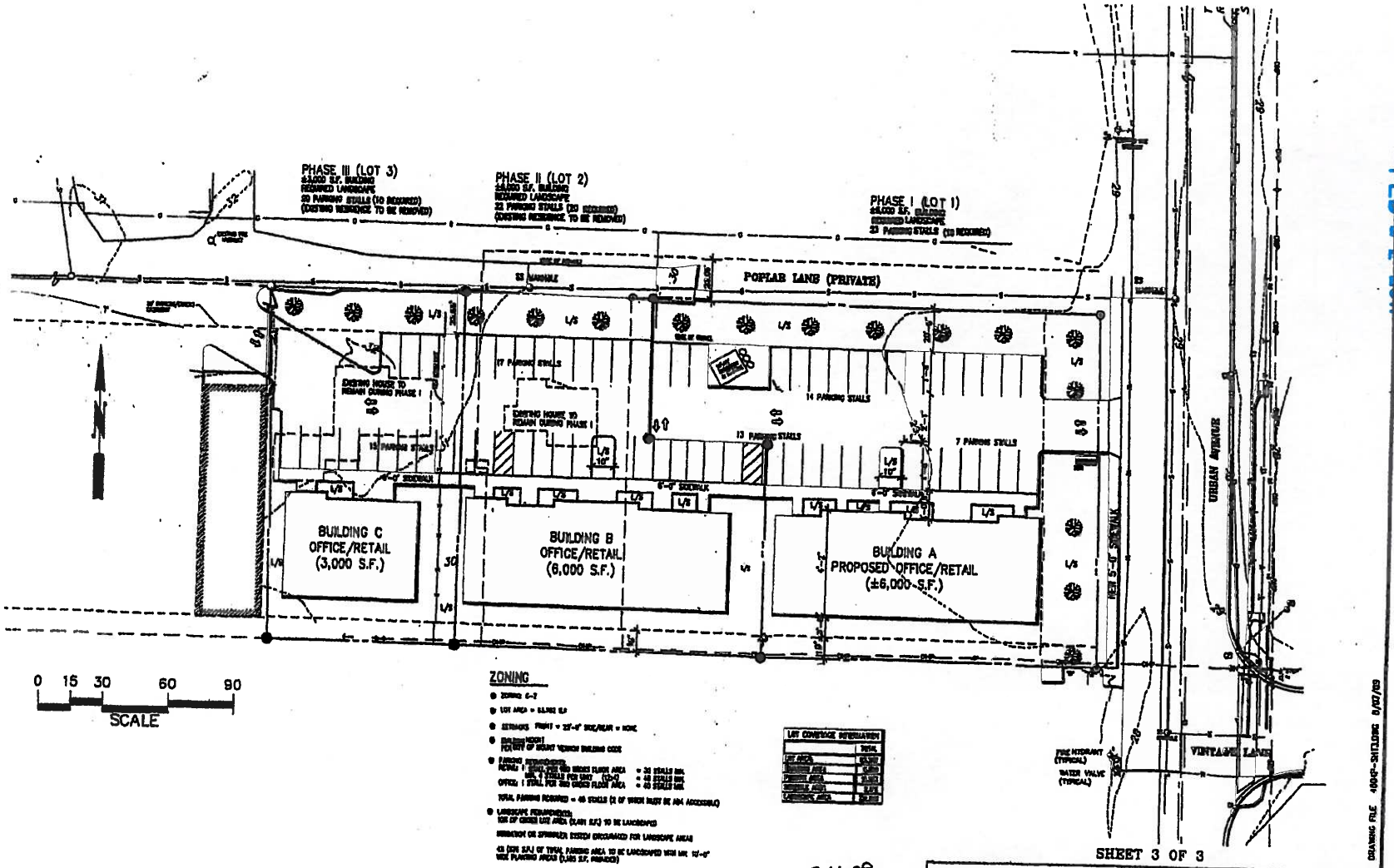

EXHIBIT
4

FEB 22 2017
ENV DZ 0022 UN E N

EXHIBIT C

Preliminary Short Plat Report and Decision

REPORT & DECISION	CITY OF MOUNT VERNON Community and Economic Development Department ***ADMINISTRATIVE SHORT PLAT***

A. SUMMARY AND PURPOSE OF REQUEST:

DATE: March 19, 2010

LAND USE ACTION: Administrative Approval of a Short Subdivision

PROJECT NAME/NUMBER: Swanson 3-Lot Short Plat; LU 09-037

APPLICANT/OWNER: Eugene Swanson; 12919 Thillberg Road; Mount Vernon WA 98273

PROJECT PLANNER: Elizabeth Higgins, Senior Planner

PROJECT SUMMARY: The project proponent has requested approval of a Short Plat that would result in subdivision of 1.46 acres of land into 3 lots. Although the project site consists of three tax lots, they would be reconfigured by this action. The site is on the west side of Urban Avenue. [Exhibit 1]

The project would be developed in 3 phases. Phase One would be located on the new Lot 1 (Parcel 'A', primarily consisting of P25945), which would be a 6,000 sf office/retail building.

Existing residential buildings on the site [Exhibit 2] will remain until the phased development necessitates their removal.

The Comprehensive Plan designation is General Commercial (GC). The GC designation is implemented by zoning and development standards of the General Commercial (C-2) District. The intent of the C-2 District is to "establish and preserve general commercial areas having a variety of uses and accessible primarily by automobile."

There are no critical areas on the property. An environmental review was completed as required to meet the requirements of a Fill and Grade permit.

A three-lot subdivision is a Type II Permit, requiring administrative approval by the Director of the Community and Economic Development Department.

PROJECT LOCATION: The addresses are 504 and 512 Poplar Lane and 2119 Urban Avenue, Mount Vernon. The site is located south of Poplar Lane and west of Urban Avenue, in the southwest quadrant of the intersection of those two streets. The Skagit County Assessor describes the parcels as P25945, P25764, and P25770; and the site is located within the N ½ of the S ½ of the S ½ of the NW ¼ of the NW ¼ of Section 17 Township 34 North, Range 4 East, W.M.

B. EXHIBIT LIST

Exhibit 1: Vicinity Map

Exhibit 2: Existing Conditions and Phase 1 Site Plan
Exhibit 3: Aerial Photograph
Exhibit 4: Short Plat Map

C. GENERAL INFORMATION:

Comprehensive Plan Designation: General Commercial (GC)
Zoning: General Commercial (C-2) District
Existing Site Use: Two single-family residential structures and vacant parcel
Neighborhood characteristics:
North: Poplar Lane; Aiken's Mobile Home Park; Mobile home residential use; zoned General Commercial (C-2) District
South: Kurth Mobile Home Park; Mobile home residential use; zoned General Commercial (C-2) District
East: Urban Avenue; Single-family residential use; zoned Single-family Residential District (R-1, 5.0)
West: Village Square commercial development; zoned General Commercial (C-2) District

Access: Phase 1 of development would be accessed from Urban Avenue by means of a curb cut and driveway. Poplar Lane would continue to provide access to the two existing residential structures until they are redeveloped in later phases. At that time, access would be by means of an easement across the Village Square development to the west.

Site Area: The area of the proposed subdivision is ± 63,702 square feet (1.46 acres)

D. APPLICABLE SECTIONS OF THE MOUNT VERNON MUNICIPAL CODE (MVMC):

Title 13: Sewers

Title 14: Land Use and Development
Chapter 14.05 Administration of Development Regulations
Chapter 14.10 Concurrency

Title 15: Buildings and Construction
Chapter 15.06 Environmental Policies
Chapter 15.40 Additional SEPA Guidelines

Title 16: Subdivisions
Chapter 16.04 Title Purpose and Definitions
Chapter 16.16 Street Design Standards
Chapter 16.20 Improvements
Chapter 16.32 Short Plats

Title 17: Zoning
Chapter 17.48 General Commercial District (C-2)

E. APPLICABLE SECTIONS OF THE MOUNT VERNON COMPREHENSIVE PLAN:

- Land Use Element
- Transportation Element

F. ENVIRONMENTAL REVIEW

Applications for Fill and Grade Permits, when excavation and/or fill exceeds 500 cubic yards of material must apply for an environmental determination. Such environmental review must be is consistent with the Washington State Environmental Policy Act (SEPA). Pursuant to the City of Mount Vernon's Environmental Policies (Chapter 15.06 MVMC) and the State Environmental Policy Act (43.21C RCW), on November 13, 2009, the City of Mount Vernon issued a Mitigated Determination of Non-Significance (MDNS) for the proposed project. A 10-day appeal period closed on December 4, 2009, with no appeals having been filed.

MITIGATION MEASURES:
Based on an analysis of probable impacts from the proposed project, the following mitigation measures were issued with the Mitigated Determination of Non-Significance:

1) The two residences that are to remain until the completion of Phase One shall be connected to the city sanitary sewer system prior to recording the Final Plat.

2) An existing on-site well shall be decommissioned for potable use prior to Preliminary Plat approval in a method approved by county and state regulations.

G. DEPARTMENT ANALYSIS:

1. Project Description/Background:

The land use action has been requested for three tax parcels under a single ownership. The 1.46 acre property consists of three tax parcels, the westerly two (P25770 and P25764) have single-family residential structures constructed in 1952 and 1955, respectively. The parcel on the east, which abuts Urban Avenue (P25945) is undeveloped. [Exhibit 3]

The area of the property is highly mixed in terms of use. Mobile home parks are situated adjacent to the north and abutting to the south. Village Square, a commercial development, is to the west. A medium-density, single-family residential neighborhood is across Urban Avenue from the site.

The project proponent has requested approval of a Short Plat that would allow subdivision of a 1.46 acre property into 3 lots. [Exhibit 4] The site is south of Poplar Lane, an unimproved street, and west of Urban Avenue, an arterial. Access would be from Urban Avenue for Phase 1. Poplar Lane would continue to provide access to the two existing residential structures until the underlying lots are redeveloped in later phases. At that time, access would be by means of an easement across the Village Square development to the west.

The Comprehensive Plan designation is General Commercial (GC). The GC designation is implemented by zoning and development standards of the General Commercial (C-2) District. The intent of the C-2 District is to "establish and preserve general commercial areas having a variety of uses and accessible primarily by automobile."

2. City Process:

The proposed short plat requires a Type II review process, which is an administrative decision that may be appealed to the Hearing Examiner. The application for this land use action was deemed technically complete on September 4, 2009. A Notice of Application (NOA) was issued on September 4, 2009. The NOA was published in the newspaper of record on September 9, 2009, and distributed to all properties adjacent and abutting the project site as required by 14.05.190(B). In addition, the site was posted with a Land Use sign and an affidavit of posting was submitted to the Community & Economic Development Department.

3. Public Comments:

During the public comment period that followed the NOA, which closed on September 23, 2009, no telephone calls were received and no written comments were submitted.

4. Staff Review Comments:

Representatives from various City departments received the application materials during the Notice of Application period and subsequently identified and addressed issues associated with the proposed land use action. Comments received during this review period have been incorporated into this report and are included within the project file.

5. Permitted Uses:

A wide variety of commercial / retail / office uses are permitted as a matter of right in the C-2 District, as per MVMC 17.48.020. Verification that uses within the future development are allowed should be made at the time business licenses are issued.

6. Design of Short Plats - Standards:

The following design standards for short plats have been established (MVMC 16.32.040) to assist decision makers in the review of the short plat:

a. Lots shall adhere to the standards of the zoning ordinance (Chapter 17.48 MVMC):
   i. Lot area and width (MVMC 17.48.050): *There is no minimum lot area or depth requirement.*
   ii. Setbacks (MVMC 17.48.060):
      a) Minimum Front Setback: 10 feet (*Buildings on the corner lots shall observe the minimum setback on both streets) For properties that front an arterial (Urban Avenue) the setback shall be 25 feet.*
      b) Side and Rear Setbacks: none
   iii. Maximum Building Height (MVMC 17.48.070): unrestricted except for fire safety and building code considerations.
   iv. Landscaping (MVMC 17.48.080): required as per Chapter 17.93 MVMC.
   v. Parking (MVMC 17.48.090): required as per Chapter 17.84 MVMC.
   vi. Signs (MVMC 17.48.100): shall meet the requirements of Chapter 17.87 MVMC.

b. The subdivision shall be in compliance with the City's Comprehensive Plan:

The Comprehensive Plan designation is General Commercial (GC). The GC designation is implemented by zoning and development standards of the General Commercial (C-2) District. The intent of the C-2 District is to "establish and preserve general commercial areas having a variety of uses and accessible primarily by automobile." This subdivision is consistent with the goals of the Comprehensive Plan in furthering policies so that Mount Vernon will meet economic goals.

c. Except as noted in MVMC 16.32.032(I), each lot shall abut a public street by no less than the frontage required (20 feet) by the zoning district in which it is located:

All lots would abut public streets by more than the minimum frontage required.

d. Except as noted in MVMC 16.32.032(I), all lots created by a short subdivision shall abut and have access from a dedicated or deeded street and such street shall have the right-of-way width specified by the Community and Economic Development Department:

All lots would abut and have access from either a public street (Urban Avenue) or a private street located within an easement located to the west.

e. Short subdivisions that contain a dedication of land to the public shall have been surveyed and monumented and recorded with the County Auditor. The monumentation requirement may be waived if the centerline of the right-of-way is already monumented:

Not required for this subdivision.

f. Where approval of a short plat is conditioned upon construction of improvements, the construction plans shall be submitted to the City Engineer accompanied by a fee as outlined within the City's current fee schedule:

See construction improvement requirements, below.

g. Land that the Community and Economic Development Department Director has found to be unsuitable due to flooding, bad drainage, or swamp conditions and that the Community and Economic Development Department Director considers inappropriate for development, shall not be subdivided unless adequate means of control or abatement have been formulated by the subdivider and approved by the Community and Economic Development Department:

Not applicable to this short plat.

h. In the event the land to be subdivided has a slope or slopes of more than 20 percent and/or rock or unstable soil conditions, the subdivider shall furnish soil data to the City Engineer. If conditions warrant control measures to correct slide, erosion, or other similar problems, the subdivider shall be responsible for the design, installation, and expense of any device or corrective measure, subject to approval by the Community and Economic Development Department:

Not applicable to this short plat.

i. No further subdivision shall occur without compliance with this title, the subdivision requirements of the City, without filing a final plat.

j. Where approval of the short plat is conditioned upon construction of improvements, prior to the construction plans receiving final approval, the Community and Economic Development Department shall receive a construction inspection fee as outlined within the City's current fee schedule:

See construction improvement requirements, below.

7. Approval Criteria (MVMC 16.32.050):

   The Community & Economic Development and Public Works Directors shall determine if appropriate provisions have been included in the short plat for, but not limited to, the public health, safety and general welfare, open spaces, drainage ways, critical areas, streets, alleys, other public ways, water supplies, sanitary wastes, parks, playgrounds and sites for schools.

   a. If the Community & Economic Development and Public Works Directors find that the public use and interest will be served by the platting of such subdivision, then the Directors shall recommend approval. If the Directors find that the proposed short plat does not make such provisions or that the public use and interest will not be served, then the Directors may recommend disapproval of the short plat.
   b. Dedication of land to any public body; and/or dedication of easements to abutting property owners may be required as a condition of subdivision approval and shall be clearly shown on the final plat. The Directors shall not require, as a condition of the approval of any plat, that a release of liability be procured from other property owners.

8. Minimum Improvements Required:

   Prior to granting approval for any short subdivision, the Community and Economic Development Department shall ascertain that the following improvements, as required by MVMC 16.32.060, have been made or installed for each lot created by the division of land:

   a. Water supply per recommended state standards; adequate fire protection with review by the City of Mount Vernon Fire Department:

      Domestic water to be provided by Skagit PUD prior to Final Plat approval.
   b. Sanitary sewer:

      Separate sanitary sewer lines shall be provided to all lots prior to Final Plat approval.
   c. Underground power, telephone, television cable and all other necessary utilities, including undergrounding existing facilities;

      All other utilities shall be installed by providers.
   d. Appropriate dedications or easements, if required;

      An easement shall be provided across the property to the west from the public street to the northwest corner of the property and shall be recorded on the face of the plat. Staff recommends this be a condition of plat approval.
   e. Improvements required for fronting street, if sub-standard:

      Frontage improvements are required along Urban Avenue. Sidewalks must be provided to connect with existing sidewalks to the north. This shall be a condition of Final Plat approval.
   f. Design of improvements in accordance with MVMC 16.04.260 and 16.20;
   g. As-built mylar construction drawings shall be provided; and
   h. Electronic media shall be provided in an acceptable format.

9. Availability and Impact on Public Services:

   a. Fire:

      Fire Department comments are included in the “Advisory Notes to Applicant” section of the

environmental report. A Fire Impact Fee of $0.22 a square foot will be required at issuance of building permits for new construction.

b. Recreation:

Not applicable

c. Schools:

Not applicable

d. Stormwater:

Storm drain connections shall be provided to all lots prior to Final Plat approval.

e. Water:

The applicant shall contact Skagit County Public Utility District to verify water service availability prior to recording the Final Plat.

f. Sanitary sewer:

All lots will be required to connect with the existing sanitary sewer service main.

g. Street Improvements:

Additional engineering requirements may be identified with the approval of a Fill and Grade permit.

H. DECISION

The **Swanson Short Plat** application, **File No. LU 09-037**, is **APPROVED** subject to compliance with the standards of the Mount Vernon Municipal Code and the following specific requirement:

1. Frontage improvements shall be provided along Urban Avenue, continuing north approximately 235 feet to connect with existing improvements. The improvements shall include a total 22-foot wide half-width pavement, curb, gutter, and 6-foot wide sidewalk.
2. An easement, providing access from the west and a westerly exit for emergency vehicles entering from Urban Avenue, shall be shown on the face of the plat prior to recording the Final Plat.

SIGNATURE:

_____ _____

Jana Hanson, Director ***Date***
Community & Economic Development Department

Appeals:

The decision of the Community & Economic Development Director is final unless an appeal to the Mount Vernon Hearing Examiner is filed within fourteen (10) business days from the date of mailing of the written decision. An appeal to the City Council is governed by MVMC 14.05.260. **Appeals must be made in writing on or before 4:30 PM, April 2, 2010.** Any appeal must be accompanied by a $100.00 fee and must state the appellant's reason(s) for the appeal based upon the provisions of the Mount Vernon Municipal Code.

Expiration Periods:

Short Plat: Land in short subdivisions may not be further divided in any manner within a period of five years without the filing of a final plat, except that when the short plat contains fewer than four parcels, nothing in this

section shall prevent the owner who filed the short plat from filing an alteration within the five-year period to create up to a total of four lots within the original short plat boundaries. The owner who files the original short plat may transfer this right to the subsequent owners with a statement on the face of the short plat.

TRANSMITTED this 19th day of March, 2010 to the property owner/applicant:

Eugene Swanson
12919 Thillberg Road
Mount Vernon WA 98273

TRANSMITTED this 19th day of March, 2010 to parties of record:

John Semrau
Semrau Engineering & Surveying
2118 Riverside Drive, Suite 208
Mount Vernon WA 98273-5454

City of Mount Vernon
Community & Economic Development
Planning • Engineering • Building

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98273

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MITIGATED DETERMINATION OF NON-SIGNIFICANCE

APPLICATION: Swanson Short Plat, LU09-037

PROJECT DESCRIPTION: The applicant has proposed subdividing an approximately 1.46 acre site into three lots. It is anticipated that, following site construction, Three buildings with 15,000 square feet of commercial, retail, and office uses would be developed on the property. There would be parking for 66 vehicles. The main access to the site would be from Urban Avenue to the east.

Currently, the site consists of three tax parcels which would be reconfigured. On the west, at 504 Poplar Lane, a 0.38 lot has a single-family residential structure constructed in 1952. In the center, at 512 Poplar Lane, the 0.26 acre parcel has a single-family residential structure built in 1955. The easternmost parcel, addressed in the 2002 rezone ordinance as 2119 Urban Avenue, is 0.69 acre of vacant land. The project proponent has indicated the residential structures would remain until Phase One of the project has been completed.

Approximately 2,950 cubic yards of material will be cut, approximately 2,950 cubic yards of materials will be used as fill; and 2,100 cubic yards of materials will be exported from this site. Although short plats are typically exempt from environmental review, the amount of material to be excavated from the site necessitates a State Environmental Protection Act-compliant review by the Community and Economic Development Department.

The project site is located within a moderately developed, urban setting. The Interstate-5 corridor, several major arterial roads, and high density commercial and residential development are located between the project site and the Skagit River.

The project would be developed in three phases.

PROJECT LOCATION: The addresses of the site are 504 and 512 Poplar Lane and 2119 Urban Avenue. The parcels are identified by the Skagit County Assessor as P25945, P25764, and P25770. The site is located on the west side of Urban Avenue, fronting the south side of Poplar Lane. The site is located within a portion of the NW ¼ of the NW ¼ of Section 17, Township 34 North, Range 04 East, W.M. in Skagit County, Washington.

LEAD AGENCY: Mount Vernon's Community & Economic Development Department.

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

MITIGATION MEASURES

1) The two residences that are to remain until the completion of Phase One shall be connected to the city sanitary sewer system prior to recording the Final Plat.

2) An existing on-site well shall be decommissioned for potable use prior to Preliminary Plat approval in a method approved by county and state regulations.

<u>Environmental Determination Appeal Process:</u> Appeals of the environmental determination must be filed in writing on or before 4:30 pm December 4, 2009 (10 business days from the date of publication).

Appeals must be filed in writing together with the required $100.00 application fee to: Hearing Examiner, City of Mount Vernon, P.O. Box 809, Mount Vernon, WA 98273. Appeals to the Examiner are governed by City of Mount Vernon Municipal Code Section 15.06.215. Additional information regarding the appeal process may be obtained from the City of Mount Vernon's Community & Economic Development Department, (306)336-6214

This MDNS is issued after using the optional MDNS process in WAC 197-11-355. There is no further comment period on this MDNS. There is a 10 day appeal period.

CONTACT PERSON: Elizabeth Higgins, Senior Planner
City of Mount Vernon, Community & Economic Development Department
910 Cleveland Avenue, Mount Vernon WA 98273
Telephone - 360-336-6214; Facsimile - 360-336-6283

RESPONSIBLE PERSON: Jana Hanson, Director
Community & Economic Development Department

DATE_____ **SIGNATURE**_____

ISSUED: November 13, 2009
PUBLISHED: November 18, 2009

SENT TO: SEPA Register; DOE; WDFW; CTED; WSDOT; DNR; USACOE; SKAT; MVSD; SVC; SCPDS; Skagit System Cooperative; SKAT; PUD; AT&T; CNG; PSE and Verizon.

EXHIBIT D:

Engineering Division's Conditions:

1. The previous traffic concurrency was done on October 2009. The project is required to conduct a new traffic concurrency review and comply with the suggested conditions of approval of the new review.
2. The stormwater report for the project is required to be updated by the new or current Engineer of Record.
3. The project is required to comply with the Mount Vernon Engineering Standards adopted at the time technically complete permit(s) are submitted to the City.
4. The project is required to comply with Telecommunications or Fiber Optic installation.
5. The project is to comply with current ADA Standards.
6. Any proposed Low Impact Development facilities are required to comply with the standards adopted with Mount Vernon Municipal Code Chapter 13.33 at the time technically complete permit(s) are submitted to the City.