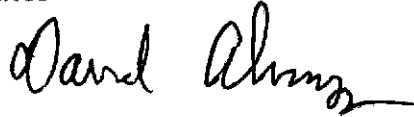


**JEFFERSON COUNTY
BOARD OF COUNTY COMMISSIONERS**

AGENDA REQUEST

TO: Board of Commissioners
Philip Morley, County Administrator

FROM: David Alvarez, Chief Civil DPA 

DATE: Wednesday, May 7, 2014

RE: Termination Point Plat and Russell J. Trask

STATEMENT OF ISSUE:

The Resolution's title states the issue most succinctly, i.e., that the Prosecutor, Public Works and Community Development are recommending that certain lots within the Plat known as Termination Point Plat be removed from any extant moratoria prohibiting the development of those lots for residences. The proposed Resolution is **Attachment One**.

ANALYSIS:

Termination Point Plat ("TPP") is a plat recorded in 1961 with respect to real property located south of SR 104 and south of Shine Road. See **Attachment Two**. In the most general terms the TPP can be divided into two sections: one located at the top of the high bluff and between Linda View Drive and Shine Road, also known as Lots 42-56 of the TPP and the second, which contains the bluff and the land at the toe of the bluff, near Ricky Beach Drive, which is the remainder of the TPP.

The second portion of the TPP is in a landslide-prone area, what the GMA calls a "geologically hazardous" area and has never been suitable for implementation of its underlying zoning designation, rural residential, i.e., the construction of homes. In fact, because the second portion of the TPP was mapped by the Coastal Zone Atlas as landslide prone the County Commission prohibited in 1983 via Resolution #69-83 any residential development anywhere within the TPP. See **Attachment Three**.

Mr. Trask purchased the TPP sometime in the mid-1990's. When Mr. Trask sought to develop the TPP in 1995 via application SDP95-0003 he was faced with the obstacle that the landslide-prone aspect of the TPP was such that it could not be developed in a manner consistent with the recorded 1961 Plat. The second or below the bluff portion of the TPP would have required such manmade installations in the shoreline jurisdiction that obtaining the necessary permits or authorizations was quite unlikely.

Geotechnical evaluations performed as part of Trask's application process indicated that the portions of the TPP above the bluff were suitable for removal from application of the 1983 moratoria if drainage and setback recommendations listed in the December 1996 geotechnical report were implemented. That 1996 geotechnical report was peer reviewed in 1997 and its results were affirmed as accurate.

In order to provide a potential solution (presumably, the undersigned was not here then) to Mr. Trask's dilemma and based, in part, on the two geotechnical reports, the County Commission adopted Resolution #90-97 in August 1997. See **Attachment Four**. That 1997 Resolution removed from the 1983 Moratorium Lots 1-4, 22-35 and 42-56 of the TPP if certain preconditions were met. The lots so released were those lots which did NOT "extend(ing) south of or beyond the top of the fault scarp or slide area of the[TPP.]"

The preconditions were, briefly, A) an amended Plat, b) notice on the amended Plat that the area "is subject to geologic instability" C) a restrictive covenant for all owners indicating the presence of that geologic instability, D) an approved drainage and erosion control plan to be installed to the satisfaction of the County Engineer and E) a letter from the County Engineer confirming the partial repeal of the 1983 Moratorium based on the applicant satisfaction of these preconditions.

It should be noted that these five preconditions all assumed the entire TPP, both the high bluff and the lower region would be developed with a single unified plat and drainage and erosion control plan. That never occurred, although homes were built along Harbor View Drive at lots 1-4 of the TPP. Those houses are occupied today.

The 1983 Moratorium with the 1997 "partial repeal" remain in effect today. The TPP returned to the attention of the County planning department when a neighbor on Harbor View Drive noticed Mr. Trask performing clearing and grading at the TPP in the summer of 2013. The State Dept. of Natural Resources issued a Notice to Comply against Mr. Trask's actions in May 2013, and those violations have been remedied to the satisfaction of DNR.

The County filed a civil lawsuit against Mr. Trask seeking and eventually obtaining a Permanent Injunction prohibiting Mr. Trask from undertaking any land use development, for example, clearing and grading or removing of timber, from the TPP. Mr. Trask, through his lawyer, asserts the Permanent Injunction is overly broad and thus not lawful.

Mr. Trask counterclaimed against the County alleging that the Moratoria were and are a "taking" of his property in violation of the Fifth Amendment to the U.S. Constitution. He sought money damages in the millions of dollars. Mr. Trask now has a revived interest in developing for homes at least that portion of the TPP that is on the high bluff.

Community Development and the undersigned met with Mr. Trask's attorney and his representatives to discuss a possible "global" resolution of the various legal claims. As a result of that session a complete resolution consisting of three documents/actions was arrived

at. Public Works and Community Development both have stated in writing their recommendation that lots 42 to 56 be no longer covered by the two Moratoria. See **Attachments Five and Six.**

The three parts of the resolution of this lawsuit are as follows:

1. Adoption of this Resolution to make it express that Lots 42-56 of the TPP, those lots located between Linda View Drive and Shine Road are eligible for development pursuant to and in compliance with the county's development regulations including, but not limited to, the Critical Areas Ordinance or "CAO." Some of the lots in question here are denoted as "intermediate" and "unstable" and thus may be "geologically hazardous areas," a "critical area" as that term is defined in the GMA.
2. Recording with the Jefferson County Auditor a document entitled "Notice to Title" on the remaining lots of the TPP, most of which are substantially more prone to landslides than the lots being released by adoption of this Resolution. The Notice to Title would include those lots in the TPP that were conditionally released by the 1997 "partial release" because the preconditions for those lots were not satisfied.
3. Filing in Superior Court the voluntary dismissal of the County's lawsuit against Mr. Trask and Trask's dismissal of his counterclaim against the County.

FISCAL IMPACT:

None, other than recording the Notice to Title (<\$75) with the County Auditor.


RECOMMENDATION:

Adopt the Resolution and provide DPA Alvarez with a signed and sealed copy.

DEPARTMENT CONTACT:

Chief Civil DPA David Alvarez, Extension 219

REVIEWED BY:


Philip Morley, County Administrator

5/7/14
Date

STATE OF WASHINGTON
COUNTY OF JEFFERSON

In the Matter of Revising the Eligibility }
For Land Use and Development of certain }
Lots within a Plat known as Termination }
Point subject to earlier County Commission }
Resolutions prohibiting their development }

RESOLUTION No. _____

WHEREAS, certain real property located in Shine in unincorporated Jefferson County is the location of a Plat known as Termination Point Plat ("TPP") recorded with the Jefferson County Auditor in 1961; and

WHEREAS, many years before Ch. 36.70A RCW (the Growth Management Act) became applicable to this County a portion of the TPP was mapped and determined to fall within zones known as "Uos" or "Urs," meaning a portion of the TPP is known to be prone to the occurrence of landslides because it contains land sitting on a high bluff and lower lying land below and thus vulnerable to landslides; and

WHEREAS, the greater likelihood of landslides at the TPP caused the Board of County Commissioners ("BoCC") to adopt Resolution #69-83 in July 1983, said Resolution serving to impose a moratorium against all land use and development at any lot within the TPP that had been mapped as falling within the "Uos" or "Urs" zone; and

WHEREAS, Russell J. Trask, Sr. purchased the TPP sometime in the mid-1990's; and

WHEREAS, while Mr. Trask wished to develop the TPP for single-family homes, a large portion of the TPP was and remains to this day unbuildable and not suitable for single family residences, particularly the lots within the TPP below the high bluff, those parcels on either side of Ricky Beach Road; and

WHEREAS, despite the topographical obstacles to development of the TPP for single family residences Mr. Trask wished to develop a portion of the TPP (above the high bluff) for such residences; and

WHEREAS, the County adopted in 1997 as Resolution #90-97 a conditional release from the 1983 Moratorium for certain parcels located behind or above the high bluff if certain preconditions (such as an amended TPP plat, installation of an erosion and drainage control system to the satisfaction of the County and a confirming letter from the County Engineer) were satisfied by Mr. Trask; and

WHEREAS, the 1997 partial release Moratorium served to release certain lots within the TPP from the 1983 Moratorium, specifically Lots 1-4, 42-56 and those portions of 22-35 not extending south of or beyond the top of the faulty scarp area of the TPP; and

WHEREAS, that decision to release certain TPP lots from the 1983 Moratorium was based on not one but two geotechnical reports, the second of which was a peer review of the first, which concluded that the lots to be released from the 1983 moratorium were not at risk of landslides provided certain drainage and erosion control measures were implemented; and

WHEREAS, the preconditions to the release of certain TPP lots were not met by Mr. Trask but the geology and topography of those “eligible” TPP lots has not changed; and

WHEREAS, since adoption of the County’s GMA-derived Comprehensive Plan in 1998, the County has been planning under the GMA and the BoCC adopted in 2008 development regulations known as the “Critical Areas Ordinance” codified at Ch. 18.22 of the County Code; and

WHEREAS, landslide-prone areas are known in GMA terminology as “geologically hazardous areas” and are a type of “critical area” as that term is defined in the GMA; and

WHEREAS, one method to determine if a given location is a geologically hazardous area is to review the State Department of Ecology Coastal Zone Atlas Mapping; and

WHEREAS, that Atlas maps lots 42-47 and 55 and 56 as “stable,” Lots 48-54 are mapped as “intermediate” and Lots 49-52 are primarily mapped as “unstable” because of a moderate slope and proximity to recent slides, without proof of instability at those lots; and

WHEREAS, recent (2013) activity land use or land development was undertaken by Mr. Trask, or his agents or representatives, at the TPP without permits and without authorization from either the County or the State Department of Natural Resources; and

WHEREAS, the County filed a lawsuit against Mr. Trask and obtained a Permanent Injunction prohibiting him from undertaking or implementing any land use development at the TPP and Mr. Trask counterclaimed for money damages against the County; and

WHEREAS, Mr. Trask and his agents seek to lift the moratoria against land use development with respect to Lots 42 through 56, which can also be described as the lots between Linda View Drive and Shine Road; and

WHEREAS, Mr. Trask and his agents wish to use Lots 42 through 56 as collateral for a bank loan; and

WHEREAS, all parties to the lawsuit are working towards a resolution that would allow Mr. Trask to put up the eligible lots as collateral and terminate the lawsuit and counterclaim; and

WHEREAS, any land use or development at Lots 42 through 56 will be subject to and must occur in compliance with any and all of the County’s adopted development regulations, including, but not limited to, the Critical Areas Ordinance; and

WHEREAS, Community Development and Public Works have both stated in writing that based on the geotechnical reports from the 1990's and the protections provided to the environment at the TPP and the County as a whole by the current GMA-derived development regulations there is no reason to apply the moratoria (1983 and 1997) to Lots 42 through 56 within the TPP, as recorded with the Auditor in 1961;

NOW, THEREFORE, BE IT RESOLVED as follows:

1. The County Commission expressly states that neither Resolution #69-83 nor Resolution #90-97 as adopted by prior County Commissions are applicable to Lots 42 through 56 (inclusive) (the lots between Shine Road and Linda View Drive) as reflected on the recorded map for Termination Point Plat, a plat recorded with the Jefferson County Auditor in 1961;
2. The County Commission concurs with Public Works and Community Development that Lots 42 through 56 as reflected on the recorded map for Termination Point Plat, a plat recorded with the Jefferson County Auditor in 1961, are eligible for land use and development, said land use or development to be undertaken and completed in compliance with the development regulations in place at the time when any land use permit application regarding that real property is deemed "substantially complete" by the Department of Community Development, said regulations including, but not limited, to Ch. 18.22 of the County Code, the Critical Areas Ordinance as it exists now or as it may hereafter be amended;
3. The lots no longer subject to or impacted by either Resolution #69-83 or Resolution #90-97 have the following Assessor's Parcel Numbers: 998600017 and 998600021 through 998600034 inclusive.

APPROVED AND ADOPTED this _____ day of _____, 2014 in Port Townsend, Washington.

Normal signatures setup.

A-57
11-25-A

TERMINATION POINT

SITUATED IN GOVT. LOT 1, SEC. 2, TWP 27 N, R 1 E, W.M.
JEFFERSON COUNTY, WASH.

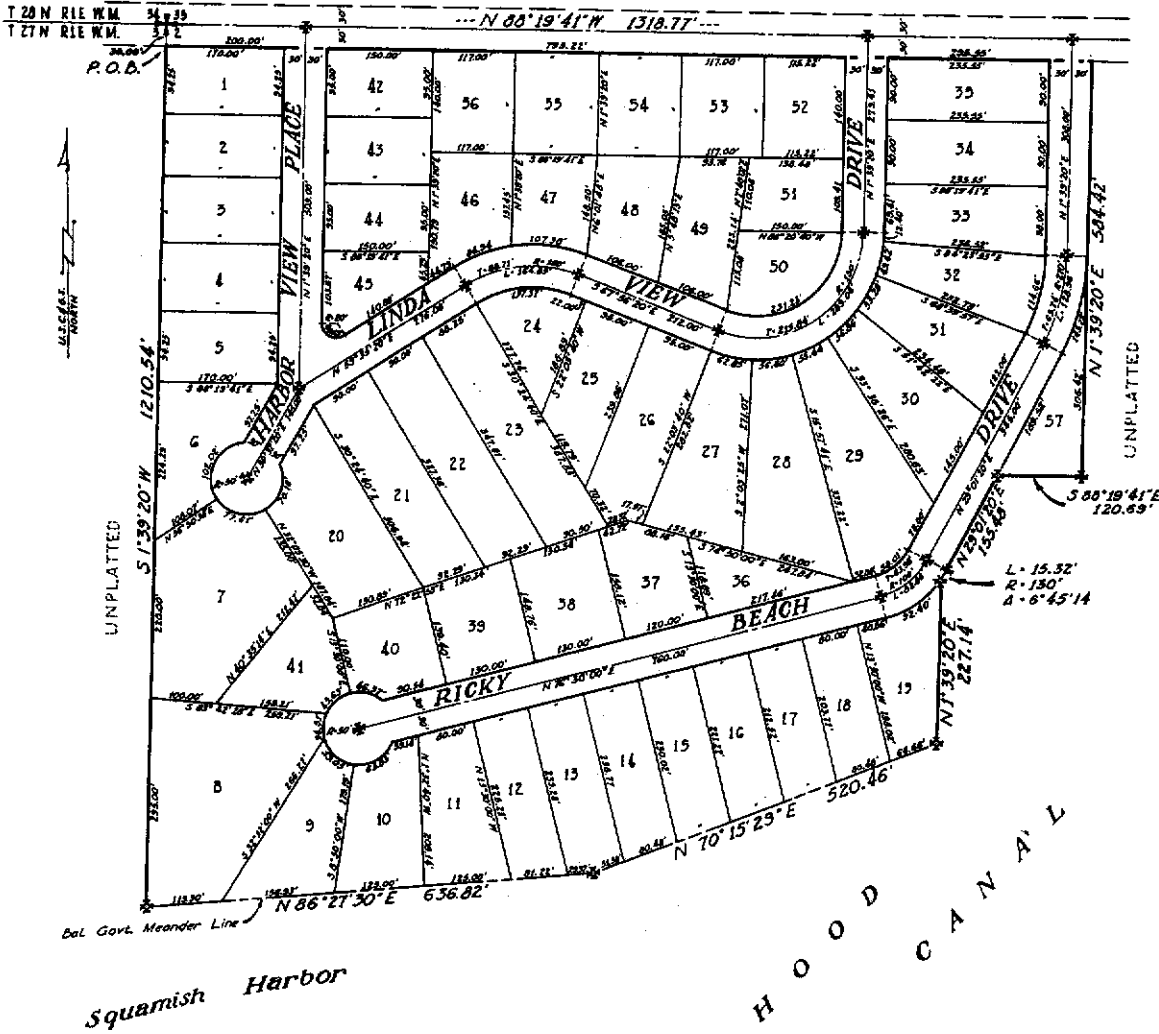
SCALE: 1" = 100'

JUNE, 1961

GEORGE ROATS
CIVIL ENGINEER & LAND SURVEYOR
FOULDA, WASH.

SHEET 1 OF 2 SHEETS

UNPLATTED



ATTACHMENT ~~ONE~~ TWO

TERMINATION POINT

SITUATED IN GOVT. LOT 1, SEC. 2, TWP. 27 N, R 1 E, W.M.
JEFFERSON COUNTY, WASH.

JUNE, 1961

SHEET 2 OF 2 SHEETS

LAND SURVEYOR'S CERTIFICATE



I hereby certify that the plot of "TERMINATION POINT" is based upon an actual survey and subdivision of Section 2, Twp. 27 N, R 1 E, W.M., that the distances and courses of angles are shown thereon correctly, the monuments have been set and all lot and block corners have been staked on the ground.

George Roate
Civil Engineer and Land Surveyor.

DEDICATION

KNOW ALL MEN BY THESE PRESENTS that BERNADINE PARKKO, wife of Norman Parkko, as her separate estate, owner in fee simple of the land hereby platted and GEORGE D. BARCLAY and MARY JEAN BARCLAY, his wife, DONALD K. ANDERSON and DOROTHY G. ANDERSON, his wife, and H & L BLOCK, a California Corporation, contract purchasers of the land hereby platted, hereby declare this plot and dedicate to the use of the public forever all streets, avenues and places shown on the plot and the use thereof for any and all public purposes not inconsistent with the use thereof for public highway purposes, also the right to make all necessary slopes for cuts and fills upon the lots and blocks shown on this plot in the reasonable original grading of all the streets, avenues, and places shown hereon. Also the right to drain all streets over and across any lot or lots where water might take a natural course after the street or streets are graded. All lots, tracts or parcels of land embraced in this plot are subject to and shall be sold only under the following restrictions:

No permanent structure or building shall be constructed on any lot, tract or parcel of this plot closer than 20 ft. to the margin of any street or road. No lot, tract or portion of a lot or tract of this plot shall be divided and sold, or leased, or otherwise changed or transferred whereby the ownership of any portion of this plot shall be less than 3500 sq. ft. or less than 50 ft. in width at its narrowest part.

In witness whereof we have hereunto set our hands and seals.

George D. Barclay Bernadine Parkko
GEORGE D. BARCLAY BERNADINE PARKKO
Mary Jean Barclay H & L BLOCK, A CALIFORNIA CORPORATION
MARY JEAN BARCLAY Donald K. Anderson
Donald K. Anderson Dorothy G. Anderson
DONALD K. ANDERSON DOROTHY G. ANDERSON

ACKNOWLEDGMENT

STATE OF WASHINGTON } S.S.
COUNTY OF KITSAP }

This is to certify that on the 23rd day of June 1961 A.D. before me, the undersigned, a notary public in and for the State of Washington duly commissioned and sworn, personally appeared BERNADINE PARKKO, GEORGE D. BARCLAY and MARY JEAN BARCLAY, his wife, and DONALD K. ANDERSON and DOROTHY G. ANDERSON, his wife, to me known to be the individuals described in and who executed the foregoing instrument and acknowledged to me that they signed and sealed the same as their free and voluntary act and deed for the use and purposes mentioned therein.

In witness whereof I have hereunto set my hand and seal the day and year first above written.

R. J. Richards
Notary Public in and for the State of Wash. residing at Leavenworth.

DESCRIPTION

This plot of "TERMINATION POINT" comprises a portion of Govt. Lot 1, Sec. 2, Twp. 27 N, R 1 E, W.M. in Jefferson Co., Wash., described as follows: Beginning at a pt. on the West Line of said Sec. 2 which is S 1° 39' 20" W 50.00 ft. from the NW corner of said Govt. Lot 1; thence S 1° 39' 20" W 120.54 ft. to the Govt. Meander Line; thence along the said Meander Line N 06° 27' 50" E 636.82 ft.; thence N 70° 15' 25" E 520.46'; thence leaving Meander Line N 1° 39' 20" W 227.14 ft. to a point on a curve having a radius of 130.00 ft. and bearing S 54° 13' 26" E from the point of radius; thence along said curve to the left an arc distance of 15.32 ft.; thence N 29° 01' 20" E 155.48 ft.; thence S 88° 11' 41" E 120.69 ft. to the E. boundary of Govt. Lot 1; thence along said boundary N 1° 39' 20" E 588.42 ft. to a point S 1° 39' 20" W 30.00 ft. from the NE corner of said Govt. Lot 1; thence N 88° 11' 41" W 1815.77 ft. to the point of beginning. TOGETHER WITH SECOND CLASS TIDE LANDS.

CORPORATE ACKNOWLEDGMENT

STATE OF WASHINGTON } S.S.
COUNTY OF KITSAP }

This is to certify that on the 20th day of June 1961 A.D. before me, the undersigned, a Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared DEWEY H. MORBERG and M. JOHN SLIKAS to me known to be the PRESIDENT and SECRETARY respectively of H & L BLOCK, a California Corporation, the corporation that executed the within foregoing instrument and acknowledged for the use and purposes therein mentioned, and on oath stated that they were authorized to execute said instrument by resolution of the Board of Directors of said corporation and that the seal affixed is the corporate seal of said corporation.

In witness whereof I have hereunto set my hand and seal the day and year first above written.
R. J. Richards
Notary Public in and for the State of Washington
residing at Leavenworth.

APPROVALS

Approved by me this 6th day of June 1961 A.D.

Edward G. Beck
COUNTY ENGINEER

Approved by the Board of County Commissioners this 6th day of June 1961 A.D.

ATTEST: John E. Gade Charles J. Gade
Auditor and Clerk of the Board of Co. Comm. Chairman of the Board of Co. Comm.

TREASURER'S CERTIFICATE

I, Charles J. Gade, Treasurer of Jefferson Co., Wash. hereby certify that all taxes on the above property are paid up to and including the year 1961 A.D.

Charles J. Gade
COUNTY TREASURER

RECORDING CERTIFICATE

Filed for record at the request of R. J. Richards on June 16 1961 A.D. at 20 min past 10 o'clock and recorded in Vol. 4 of Plats page 25, County of Jefferson Co. Wash.

WIMEN E. GARD
COUNTY AUDITOR

By: David S. Gifford
DEPUTY

Rechel
Card &
Cartw
7/19/83

284661

RESOLUTION NO. 69-83

TERMINATION POINT SLIDE AREA
RESTRICTION ON DEVELOPMENT ACTIVITY

WHEREAS, certain soil and geological conditions exist within portions of Sections 2 and 3, Township 27 North, Range 1 East, W.M., and Section 35, Township 28 North, Range 1 East, W.M.; and

WHEREAS, such conditions have caused property damage and impose a threat to future property improvements; and

WHEREAS, Resolution No. 36-77, signed by the Jefferson County Board of Commissioners regards only that portion of the geologic hazard within Killapie Beach Plat; and

WHEREAS, the Coastal Zone Atlas of Washington identifies this area along the shoreline as having critically unstable slope characteristics; and

WHEREAS, future activities and improvements within this area may further aggravate the existing situation; now, therefore,

BE IT RESOLVED, that no further development activity be permitted or authorized within this area of slope instability in the above referenced sections; and

BE IT FURTHER RESOLVED, that the boundaries of said soil condition shall include the area identified by the Coastal Zone Atlas of Washington slope stability map as "Urs" and "Uos"; and

BE IT FURTHER RESOLVED, that specific sites within this area may be excluded from the terms of this resolution upon assurance and demonstration, under the direction of a licensed civil engineer or geologist knowledgeable in the practice of soils and/or geological engineering, that slope stability can be accomplished.

APPROVED this 11th day of July, 1983.

JEFFERSON COUNTY
BOARD OF COMMISSIONERS

ATTACHMENT 3

RECORDED IN VOLUME 177
OF OFFICIAL RECORDS OF A.M. O'Meara
PAGE 139-140 REQUEST OF A.M. O'Meara, Chairman

Jefferson County Commissioner

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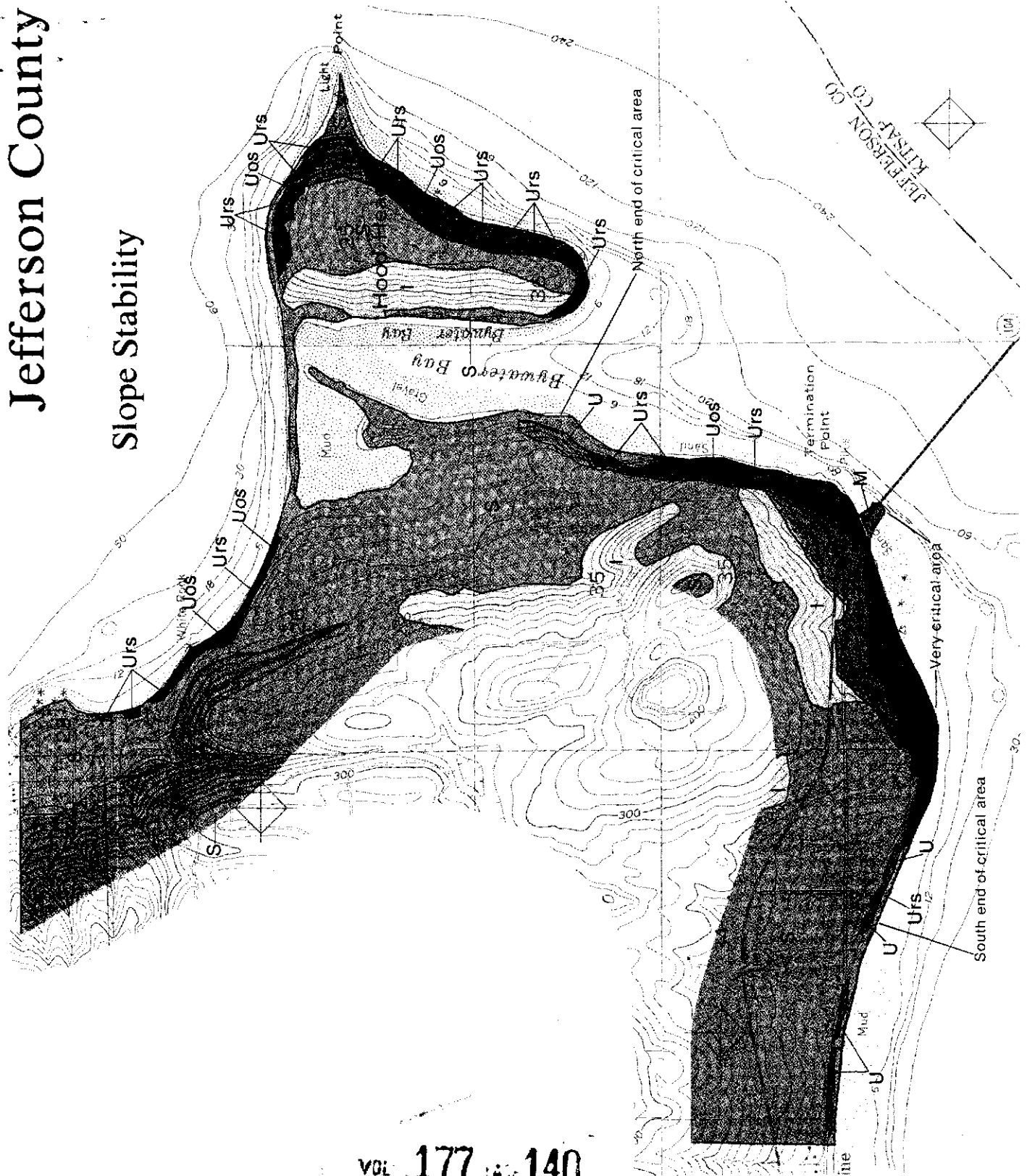
B.G. Brown
B.G. Brown, Member

PATRICIA M. KNAPP
JEFFERSON COUNTY AUDITOR
BY Patricia M. Knapp

1 1 2 11

Jefferson County

Slope Stability



VOL 177 PAGE 140
VOL 9 PAGE 0 2214

JEFFERSON COUNTY
State of Washington

Termination Point Slide Area
Development Activity Restriction
Termination Point Plat
PARTIAL REPEAL OF MORATORIUM
From
Jefferson County Resolution No. 69-83

A RESOLUTION ALLOWING DEVELOPMENT)
ACTIVITY TO COMMENCE WITHIN AND ON)
LOTS 1-4, 42-56, and portions of 22-35, OF THE)
TERMINATION POINT PLAT AS RECORDED)
IN VOLUME 4 PAGE 25 OF PLATS)

RESOLUTION NO. 90-97

WHEREAS, the Jefferson County Board of Commissioners adopted Resolution No. 69-83, placing a development moratorium on certain landslide-prone properties located in Sections 2 and 3, Township 27 North, Range 1 East, WM and Section 35, Township 28 North, Range 1 East, WM; and

WHEREAS, such conditions have caused property damage and impose a threat to future property improvements; and

WHEREAS, the Coastal Zone Atlas of Washington identifies this area along the shoreline as having critically unstable slope characteristics; and

WHEREAS, future activities and improvements within the subdivision plat area may further aggravate the existing situation; and

WHEREAS, specific areas within the development activity restriction area may be excluded from the terms of Jefferson County Resolution No. 69-83, provided that demonstration and assurance of slope stability is presented by a qualified licensed professional civil engineer or geologist knowledgeable in the practice of soils and/or geological engineering; and

WHEREAS, a geotechnical evaluation of the subject plat area dated December 1996 addressing slope stability has been prepared by a licensed engineering firm with experience in the field of geotechnical engineering; and

WHEREAS, the geotechnical evaluation analyzes the geologic and engineering characteristics of the subject site; and

WHEREAS, the Department of Public Works recommended and the applicant's engineer proposed peer review of the December 1996 geotechnical evaluation. Said peer review was conducted in April 1997 by another geotechnical engineering firm; and

WHEREAS, the peer review recommended that the development restrictions on currently platted lots 1-4, and lots 22-56 be removed, subject to implementation of the drainage and setback recommendations of the December 1996 geotechnical evaluation; and

WHEREAS, the December 1996 Geotechnical Evaluation and the April 1997 Peer Review are hereby adopted by reference and are on file with the Jefferson County Department of Community Development;

NOW, THEREFORE, LET IT BE RESOLVED BY THE BOARD OF JEFFERSON COUNTY COMMISSIONERS that the following shall be the action of the Board of County Commissioners related to repealing the restriction on development activity within and on lots 1-4, 22-35, and 42-56 of the Termination Point Plat:

BASED on findings, conclusions and recommendations prepared by a geotechnical engineering firm, and as recommended by the Director of Public Works and County Engineer, we hereby:

EXEMPT from the moratorium on development imposed through Resolution No. 69-83, lots 1-4, 42-56, and those portions of 22-35 not extending south of or beyond the top of the fault scarp or slide area of the Termination Point Plat, **Subject to the following conditions:**

1. The proposed drainage system including the erosion control system for the upper and lower areas of the Termination Point plat may be installed, subject to prior review and approval of said construction plans by the Jefferson County Engineer.
2. Prior to approval and recording of the amended Termination Point plat mylar, notice to potential lot purchasers shall be placed on the face of the mylar stating the following:
The lots within this subdivision plat are within an area subject to geologic instability. Prior to any land disturbing activity on these lots, the lot owner or authorized agent shall acknowledge such by consulting with a licensed geotechnical engineer, a professional geologist, or a licensed professional engineer knowledgeable in regional geologic conditions with professional experience in landslide, erosion or seismic hazard evaluation. At a minimum, the professional recommendations on appropriate protection measures to prevent degradation of the landslide hazard area(s) and for assurance of public safety shall be implemented.

Page 2 of 4

Partial Repeal of Moratorium - Termination Point Plat

3. A running/equitable covenant shall be prepared at the direction of the project proponent and signed by all owners in interest. This covenant shall provide constructive notice of the geologic condition found in this area and shall indemnify and hold Jefferson County harmless against any and all claims arising out of this condition. Said covenant shall be binding to all assigns, successors, heirs or subsequent purchasers; and shall be filed with the Jefferson County Auditor and referenced on the replat of Termination Point. Prior to the filing of this document, the covenant shall be reviewed and approved, as to form, by the Jefferson County Prosecuting Attorney. This covenant shall contain the following language:

I/We _____ owner of Lot(s) ___ in the replat of Termination Point, do hereby acknowledge the area in and around Termination Point has been and is subject to landsliding and geologic instability. I/We, having full knowledge of this condition, do hereby agree and shall indemnify, defend and hold harmless the County of Jefferson, its officers, agents, and employees, from and against any and all claims, losses, and liabilities, or any portion thereof, including attorney fees and costs, arising from injury or death to persons or damage to property, as a result of this condition.

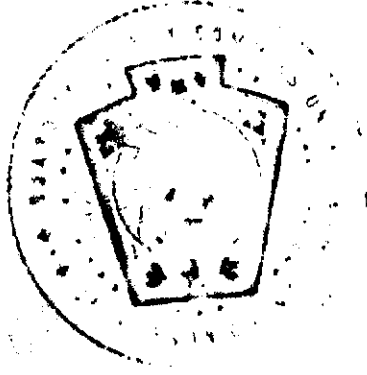
4. Prior to any land disturbing activity within the Termination Point Plat, the Jefferson County Engineer shall submit a letter to the Board of County Commissioners reaffirming the partial repeal of the development moratorium for lots 1-4, 42-56, and 22-35 above the bluff.

BE IT FINALLY RESOLVED that environmental review under provisions of Chapter 43.21C RCW State Environmental Policy; the petition to amend the Termination Point Plat; and revision to pending substantial shoreline development permit # SDP95-0003, proceed through the established review process of Jefferson County upon exclusion from the terms of Resolution No. 69-83.

APPROVAL

APPROVED BY THE JEFFERSON COUNTY BOARD OF COMMISSIONERS this 4th
day of August, 1997

Seal:



Attest:

Lorna Delaney
Lorna Delaney
Clerk of the Board

Al Scaif
Al Scaif, Director of Community
Development

Approved as to form only:

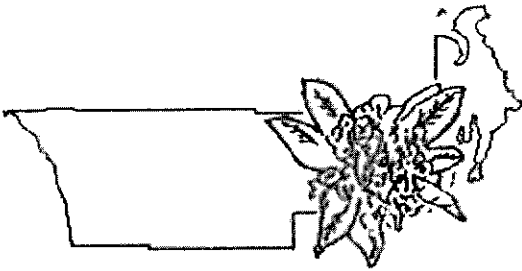
Paul E. McIlrath
Paul McIlrath, Chief Deputy
Prosecuting Attorney

Richard E. Wojt
Richard E. Wojt, Chairman

Glen Huntingford
Glen Huntingford, Member

Daniel Harpole
Daniel Harpole, Member

David Goldsmith
David Goldsmith, Risk Manager




Jefferson County
Department of Public Works

623 Sheridan St.
Port Townsend, WA 98368
(360) 385-9160

Monte Reinders, P.E.
Public Works Director/County Engineer

Memorandum

To: David Alvarez, Deputy Prosecuting Attorney
Stacie Hoskins, Department of Community Development

From: Monte Reinders, Public Works Director/County Engineer 

Date: May 2, 2014

Re: Response to Termination Point Properties April 17th Request

As you are aware, I was sent a letter by Termination Point Properties, LLC on April 17th requesting removal of the Moratorium on lots 42-56 of Termination Point [attached]. These are the lots north of Linda View Drive.

As stated in the letter, the 1983 Moratorium did not include lots 42-56 since they were not mapped as "Uos" or "Urs". Neither the 1996 Jones and Scott geotechnical report nor the 1997 AGI peer review of this report say anything about these lots. Both reports focus on remedial measures necessary for the development of the lower bench (requiring a massive rock bulkhead, drainage, and further study) and lots 22-35 between Linda View Drive and the bluff (requiring drainage and setbacks). A memorandum from the County Engineer (Klara Fabry) to the Board dated May 1, 1997 contained a recommendation to lift the moratorium on lots 42-56 (among others), but as noted above lots 42-56 do not appear to have been under the 1983 moratorium. A "Partial Repeal of Moratorium from Jefferson County Resolution 69-83" (the 1983 moratorium) was signed on August 4, 1997, removing lots 1-4, 22-35, and 42-56 from the moratorium with conditions including (1) installation of a drainage system as called for in the geotechnical reports and as reviewed/approved by the County Engineer, (2) a letter from the County Engineer affirming the partial repeal and (3) notice to title and covenants. It should be noted that the geotechnical reports appear to have assumed that lots 42-56 were not in question, and the drainage recommendations were aimed only at developing lots 22-35 and the lower bench area.

The Jefferson County Code 18.22 Article V -- "Geologically Hazardous Areas" lays out requirements for development in landslide hazard areas which can be identified in a number of

ATTACHMENT 5

ways including State Department of Ecology Coastal Zone Atlas mapping. The Atlas maps lots 42-47 and 55-56 as "stable". Lots 48-54 have areas mapped as "intermediate" and lots 49-52 are primarily mapped as "unstable" because of a moderate slope and proximity to recent slides and not because of any actual instability. The Code lays out requirements, including the requirement for geotechnical reports, when development is proposed in a mapped "unstable" area. The Code requirements and those of the moratoriums are very similar. Presumably, the Code did not exist (in its current format, at least) in 1983 and perhaps not in 1997.

Although Termination Point Properties did not state it in the letter of April 17th, they told me that their prime motivation for requesting a lifting of the moratorium on lots 42-56 was so that the lots could be used as collateral for a bank loan to fund the work needed for development. They had not determined exactly how they would develop their lots, acknowledging that placement of septic systems, drains, getting access to potable water, setbacks, etc. were all issues that could affect the final layout.

Based on a review of the available documents, I see no reason why lots 42-56 should be subject to the conditions of the Partial Repeal Moratorium of 1997. The geotechnical reports did not indicate that any specific measures were needed to develop these lots – again there seems to have been an assumption that these lots were not in question. They are a minimum of 250 feet from the bluff with most being on the order of 300 to 450 feet from the bluff where others are commonly allowed to build. If the moratorium is lifted on these lots, it should be made clear to the owners that this action should not be construed to mean the lots are developable in their current configuration and furthermore that any lots mapped as "unstable" will still be subject to the Code (18.22) requiring geotechnical analysis specifically addressing the development proposal. In other words, lifting the moratorium on these lots does not exempt them from any requirements of the Code.

The owners have not requested that the moratorium be lifted on other lots. Lots 22-35 along the bluff are subject to the drainage improvement requirements of the geotechnical reports, and until adequate engineered plans for implementing these requirements are submitted, no development can occur either with or without a moratorium on these lots. It should be noted that other lots (#7, #20, and #21) at the top of the bluff mapped as "U" (unstable) and "Urs" (unstable recent slides) were developed between the late 1970s and early 1990s.

The current project proponents seem to better understand the difficulty associated with the development of any of the lots on the lower bench, namely lots 9-19 and lots 36-41. Purely from an economic standpoint, not to mention a permitting standpoint, the geotechnical requirements for a 1,200 long massive rock bulkhead, bringing in utilities, building drainage improvements, loss of usable space due to required setbacks from slopes above and below the lots, and the additional geotechnical study required would seem to diminish the cost/benefit ratio to such a degree that the lots could only be viewed as having some potential for passive recreation. I would think their marketability would certainly be questionable as well. It will be interesting to see what if anything is proposed down there, but in any case development on lots 42-56 can be separated from and is unrelated to the lower bench area.



JEFFERSON COUNTY

DEPARTMENT OF COMMUNITY DEVELOPMENT

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SquareONE Resource Center|Building Permits & Inspections|Development Review|Long Range Planning

MEMORANDUM

To: David Alvarez, Deputy Prosecuting Attorney
Monte Reinders, Public Works Director/County Engineer

From: Stacie Hoskins, Department of Community Development Planning Manager

Date: May 2, 2014

Re: Response to Termination Point Properties April 17 Request

DCD agrees that the memorandum of May 2, 2014 from the Public Works Director/County Engineer, Monte Reinders, provides sufficient rationale for lifting the 1997 “partial repeal” moratorium with respect to Lots 42-56 of the Termination Point Plat. Development or land use upon those lots will be subject to all County development regulations, including but not limited to the Critical Areas Ordinance, Ch. 18.22 JCC.

DCD notes that most of the original development review was based on a proposed re-plat application, and conditions on the partial repeal addressed the property as a whole in the context of said re-plat. The re-plat application is no longer proposed, and the county has adopted sufficient critical area protection measures for these types of areas.

ATTACHMENT 6 [SIX]