

(Staff Use Only)

File No: _____

Date Received: _____

Receipt No. _____

CITY OF REDMOND
APPEAL APPLICATION FORM

To file a land use appeal, please complete the attached form and pay the applicable appeal fee by 5:00 p.m. on the last day of the appeal period.

Form submission and payment must be by **PERSONAL DELIVERY** at City Hall 2nd Floor Customer Service Center c/o Office of the City Clerk-Hearing Examiner, 15670 NE 85th Street. Contact the Office of the Hearing Examiner with process questions at 425-556-2191.

Standing to Appeal:

- **Appeal to the Hearing Examiner of an Administrative, Technical Committee or Design Review Board Decision (Type I or II)** - the project applicant, owner, or any person who submitted written comments (party of record) prior to the date the decision was issued may appeal the decision. The written appeal and the applicable fee must be received by the City of Redmond's Office of the Hearing Examiner no later than 5:00 p.m. on the 14th calendar day following the date of the decision.
- **Appeal to the City Council of a Hearing Examiner decision on an appeal (Type I or II)** - the project applicant, owner, City staff, or any party who appealed the department director's or Technical Committee's decision to the Hearing Examiner. The written appeal and the applicable appeal fee must be received by the City of Redmond's Office of the Hearing Examiner no later than 5:00 p.m. 10 business days following the expiration of the Hearing Examiner's reconsideration period.
- **Appeal to the City Council of a Hearing Examiner (or Landmarks and Heritage Commission) decision on an application (Type III)** - the project applicant, owner, City staff, or any person who established themselves as a party of record prior to or at the public hearing. The written appeal and the applicable appeal fee must be received by the City of Redmond's Office of the Hearing Examiner no later than 5:00 p.m. 10 business days following the expiration of the Hearing Examiner's (or Landmarks and Heritage Commission's) reconsideration period.

Should the appellant prevail in the appeal, the appeal application fee will be refunded (City of Redmond Resolution No. 1459). The appeal application fee will not be refunded for appeals that are withdrawn or dismissed.

City Council decisions may be appealed to Superior Court by filing a land use petition which meets the requirements set forth in RCW Chapter 36.70C. The petition must be filed and served upon all necessary parties as set forth in State law and within the 21-day time period as set forth in RCW Section 36.70C.040. Requirements for fully exhausting City administrative appeal opportunities must be fulfilled.

Please continue to page 2 to select your appeal type.

Please check the applicable appeal:

- Appeal to the Hearing Examiner of a SEPA decision *RZC 21.70.190(E)*. **(Please be sure to understand the type of SEPA appeal you are filing, and if a further appeal to the underlying action is needed.)**
- Appeal to the Hearing Examiner of an Administrative, Technical Committee or Design Review Board Decision (Type I or II) *RZC 21.76.060(I)*
- Appeal to the City Council of a Hearing Examiner decision on an appeal (Type I or II) *RZC 21.76.060(M)*
- Appeal to the City Council of a Hearing Examiner (or Landmarks and Heritage Commission) decision on an application (Type III) *RZC 21.76.060(M)*

Section A. General Information

(1) Thomas Short, Jr. & Andrea Short, husband and wife;
 Name of Appellant: (2) Hamid Korasani, P.E. of SAZEI Design Group, LLC
 Address: (1) 540 8th Ave. SE, (2) 6608 110th Ave. NE
 City: (1) Kirkland, (2) Kirkland State: (1) WA, (2) WA Zip: (1) 98033; (2) 98033
 Email: (1) int.services@frontier.com; (2) hamidkorasani@yahoo.com
 Phone: (home) _____ (work)(425) 214-2280 (Hamid)(cell) (425) 864-2076 (Tom);
 (425) 864-2715 (Andrea)

Name of project that is being appealed: Tom Short Duplex
 File number of project that is being appealed: DEVREQ-2017-00464/BPLN-2015-02128
 Date of decision on project that is being appealed: May 18, 2017
 Expiration date of appeal period: June 1, 2017

What is your relationship to the project?
 Party of Record Project Applicant Government Agency

Pursuant to the Redmond Zoning Code, only certain individuals have standing to appeal a decision on application or appeal (See page 1 above). Below, please provide a statement describing your standing to appeal, and reference all applicable City Code citations.

Appellants are the project Applicants, owners of the subject property, and parties of record.
 See RZC 21.76.060(I)(2)(a) & (I)3.

Section B. Basis for Appeal

Please fill out items 1-4 below. Reference all applicable City Code citations and attach additional sheets if necessary.

1. Please state the facts demonstrating how you are adversely affected by the decision:
Please see attached letter, dated May 31, 2017.

2. Please provide a concise statement identifying each alleged error of fact, law, or procedure, and how the decision has failed to meet the applicable decision criteria:
Please see attached letter, dated May 31, 2017.

- If appealing a Hearing Examiner decision:** Please provide the findings of fact or conclusions (as outlined in the Hearing Examiner's decision) which are being appealed:
Please see attached letter, dated May 31, 2017.

3. Please state the specific relief requested:
Please see attached letter, dated May 31, 2017.

4. Please provide any other information reasonably necessary to make a decision on the appeal:
Please see attached letter, dated May 31, 2017.

Do not use this form if you are appealing a decision on a:

- Shoreline Permit (must be appealed to the State Shoreline Hearings Board *RZC 21.68.200(C)(6)(b)*)
- Shoreline Variance or a Shoreline Conditional Use Permit (must be appealed to the State Shoreline Hearings Board *RZC 21.68.200(C)(6)(c)*)
- Hearing Examiner decision on a SEPA appeal (not an appealable action as successive appeals are not allowed *RZC 21.70.190(D)*)
- City Council approval or denial (must be appealed to Superior Court *RZC 21.76.060.Q*)



SAMUEL A. RODABOUGH
 ATTORNEY AT LAW
 11820 NORTHUP WAY, STE. E200
 BELLEVUE, WA 98005
 (425) 440-2593
 (425) 635-7799 (FAX)

May 31, 2017

Via Hand Delivery

Customer Service Center
 c/o Office of the City Clerk/Hearing Examiner
 City of Redmond
 15670 NE 85th St.
 Redmond, WA 98073-9710

Re: *Appeal of Deviation Request Denial, DEVREQ-2017-00464*
Tom Short Duplex Project

To whom it may concern,

This Firm represents appellants Thomas Short, Jr. & Andrea Short, husband and wife (collectively "Short"), and appellant Hamid Korasani, P.E. of SAZEI Design Group, LLC ("Korasani"), in this appeal. Short and Korasani are collectively referred to herein as the "Appellants." This appeal challenges a decision of the Technical Committee to deny a deviation pertaining to the undergrounding of utilities for the construction of a duplex on real property located at 13404 NE 100th St., Redmond, WA 98033 ("Subject Property"). The following letter is intended to be submitted with, and is hereby incorporated into, the accompanying City of Redmond Appeal Application Form ("Appeal Form"). The following paragraphs correspond to those set forth in the Appeal Form.

A. General Information:

1. The names, addresses, email addresses, and phone numbers of Appellants are as follows:

Thomas Short, Jr. & Andrea Short
 540 8th Ave. SE
 Kirkland, WA 98033
 int.services@frontier.com
 (425) 864-2076 (Tom)
 (425) 864-2715 (Andrea)

Hamid Korasani, P.E.
 SAZEI Design Group, LLC
 6608 110th Ave. NE
 Kirkland, WA 98033
 (425) 214-2280
 hamidkorasani@yahoo.com

Contact only through legal counsel

Contact only through legal counsel

The name, address, email address, and phone number of Appellants' legal counsel is as follows:

Samuel A. Rodabough
 Law Office of Samuel A. Rodabough PLLC

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11820 Northup Way, Ste. E200
Bellevue, WA 98004
sam@rodaboughlaw.com
(425) 440-2593

2. The name of the project and file numbers for the project that is the subject of this appeal is as follows:

Tom Short Duplex, DEVREQ-2017-00464, which is related to BPLN-2015-02128 and BLDG-2015-08536.
3. The Date of the decision that is the subject of this appeal, and the appeal deadline are May 18 and June 1, 2017, respectively. A copy of the decision that is the subject of this appeal is attached hereto as **Exhibit A** (“Decision”).
4. Status of Appellants, RZC 21.76.060(I)(2)(b)(i).

Appellants Short are the project applicants, owners of the subject property, and parties of record. *See* RZC 21.76.060(I)(2)(a). *See* also RZC 21.76.060(I)(3) (stating that the “appellant...[and] owner(s) of property subject to the application” are parties to the appeal). Appellant Korasani is also a project applicant and party of record. As explained in greater detail below, Appellants are aggrieved by the Decision, as it incorrectly applies City Code and will result in the needless expenditure of potentially more than \$100,000 to underground the utilities, despite the fact that there is no demonstrable benefit to undergrounding for this project and said undergrounding may exacerbate public safety concerns. Appellants are further aggrieved for the reasons set forth in the letter to the City from the undersigned, dated May 5, 2017 (“Attorney Letter”), and the letter from Appellant Korasani to the City, dated May 4, 2017 (“Engineer Letter”), attached hereto as **Exhibits B and C**, respectively, and incorporated herein by reference. The Attorney letter and Engineer Letter are collectively referred to herein as the “Deviation Application.”

B. Basis for Appeal

1. Facts demonstrating how Appellants are adversely affected by the Decision. *See* RZC 21.76.060(I)(2)(b)(i)

The Appellants own the Subject Property described above, which is located within the Residential Innovative Zone (“RIN Zone”). The Appellants have applied to the City for the construction of a duplex thereon and have requested a deviation to maintain existing overhead utilities as part of their proposed project. The City denied the deviation request. The denial of the deviation request adversely affects the Appellants as follows:

First, the Appellants’ project should be exempt from any requirements to underground utilities. Specifically, the subject property is located within the Residential Innovative Zone (“RIN Zone”). The express purpose of the RIN Zone is to “promot[e] diversity in the size, type, and

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price of new single-family homes.” RZC 21.08.070 (emphasis added). Critically, for purposes of the RIN Zone, duplexes are expressly considered single-family homes. *See* RZC 21.08.360(A)(2) (defining “single-family housing” in the RIN Zone to include “smaller dwelling units such as a cottage, size-limited dwelling or duplex.”)(emphasis added). *Cf.* RZC 21.08.070B (allowing duplexes as a permitted use in the RIN Zone). Categorizing duplexes as single-family homes in the RIN Zone is presumably for the purpose of ensuring the desired and aforementioned diversity of the type and price of housing stock available in the RIN Zone.

As indicated, the undergrounding of utilities is governed by RZC 21.17.020. The City has a past pattern or practice of interpretation and application of RZC 21.17.020 that has excluded the construction of single-family residences or minor residential development from its requirements. Indeed, the City’s prior denial of the Appellants’ deviation request, dated March 3, 2017, reflects the City’s longstanding interpretation of RZC 21.17.020: “Per Redmond Zoning Code 21.17.020, undergrounding overhead utilities is required except for single-family house or minor residential development.” However, as indicated above, for purposes of the zone in which the Subject Property is situated, duplexes are expressly defined as single-family residences. *See* RZC 21.08.360(A)(2) (defining “single-family housing” in the RIN Zone to include “smaller dwelling units such as a cottage, size-limited dwelling or duplex.”)(emphasis added). As such, the Appellants’ project should be exempt from any requirement to underground overhead utilities. In short, the Appellants are aggrieved because they are being required to comply with regulations for which their project is exempt.

Second, the very purpose of the RIN Zone is to promote the construction of comparably smaller, more affordable, residential units than other sectors of the City. As documented by Mr. Korasani, the undergrounding of utilities for this project, in light of the configuration of existing overhead utilities, will cost in excess of \$100,000, or approximately 20% of the entire cost of the proposed duplex. This exorbitant cost is not objectively reasonable, especially in light of the demonstrable lack of corresponding public benefit. Moreover, the City’s attempt to target duplexes (which are permitted outright in the RIN Zone) for a higher standard of improvements than other types of housing, is contrary to the promotion of the very mix of housing that the RIN Zone was specifically designed to encourage. Here, the requirement to underground overhead utilities is contrary to applicable legislative intent in adopting the RIN Zone. In short, the Appellants are aggrieved because they are being subject to a requirement (and associated, objectively unreasonable costs), that is contrary to the very purpose of the zone in which the Subject Property is situated.

Third, because of the unique aspects of the Subject Property and the accompanying project, the requirement to underground utilities is contrary to the express legislative purposes of RZC 21.17. As confirmed by PSE, in order to underground existing overhead utilities lines, the power pole at the corner of 134th Ave. NE and NE 100th St. must be removed. Removal of this pole will require installation of three new poles at the edges of where the underground conversion will go as follows:

A-One at the NW corner of the Subject Property;

- B- One at the SE corner of the Subject Property; and
- C- One on the other side of 134th Ave NE (west shoulder).

Clearly, mandating the undergrounding of utilities, which would require the addition of three utility poles for this project, is directly contradictory to the express legislative goals in RZC 21.17.020. Rather than removing safety hazards, the addition of 3 new power poles would actually decrease public safety and create new hazards. Moreover, the addition of three new unsightly utility poles would not improve the appearance and aesthetics of the public ways, but would only serve to exacerbate any real or perceived public concern regarding aesthetics. In short, the Decision requires the Appellants to exacerbate conditions of safety and aesthetics, among other concerns.

Additional facts demonstrating that the Appellants are adversely affected by the Decision are set forth in Deviation Application incorporated by reference herein. To summarize, the Decision requires the Applicants to underground utilities for the construction of a duplex in contravention of the City Code and applicable legislative intent. As explained below, this project should be exempt from the requirements of 21.17 RZC by the express terms therein. Moreover, the requirement to underground utilities for this project will result in the needless expenditure of upwards of \$100,000, despite the fact that there is no demonstrable benefit for undergrounding utilities for this specific project, and the RIN zone in which the Subject Property is located is intended to accommodate affordable construction methods and housing. Additionally, because of the unique aspects of this project, the undergrounding of utilities will ironically require the addition of several utility poles, which contravenes the very purpose of requiring the undergrounding of utilities under chapter 21.17 RZC. For these reasons, and as explained in greater detail below, the City should determine that the project is exempt from the requirements of 21.17 RZC by the express terms therein, or grant a deviation from the requirement to underground utilities, if such a requirement exists.

2. Concise Statement Alleging Errors of Fact, Law, and/or Procedure and the Applicable Review Criteria. See RZC 21.76.060(I)(2)(b)(ii)

The Technical Committee erred, and the Decision is erroneous, because they/it (1) engaged in an unlawful procedure or failed to follow a prescribed process, (2) erroneously interpreted the law, (3) reached a decision that is not supported by a preponderance of the evidence; and/or (4) reached a clearly erroneous decision. Specifically, the Technical Committee, and the Decision erred by

- Concluding that the undergrounding of utilities is required for this project under chapter 21.17 RZC. Specifically, as explained in detail above, this project should be exempt from any requirement to underground utilities under chapter 21.17 RZC as the duplex that is the subject of the application (1) constitutes single-family housing under

applicable Code provisions¹ and/or minor development, or (2) the duplex is not a “new commercial, industrial, or multifamily residential building,” among other arguments.

- Failing to consider, let alone address in its analysis, the facts and arguments raised in the Deviation Application, including but not limited to those facts that demonstrate that the purposes of undergrounding utilities, as set forth in RZC 21.17.020, would be thwarted if undergrounding is required for this project. Specifically, because of the unique circumstances of this project, undergrounding of utilities will actually result in a substantial net increase in the number of utility poles in the immediate vicinity. As such, the undergrounding of utilities will not (1) “[r]emove utility poles which are a hazard along streets,” or (2) “[i]mprove the appearance and aesthetics of public ways.” See RZC 21.17.020. Moreover, as a result of the substantial net increase of utility poles it is the undergrounding of utilities for this project will not (1) “[e]liminate safety issues caused by damaged overhead lines,” or (2) “[r]educe the number of service interruptions caused by storms.” *Id.*
- Failing to consider, let alone address in its analysis, any applicable deviation approval criteria. In short, the Decision only addresses chapter 21.17 RZC, including the threshold issue of whether the undergrounding of utilities is required thereby. However, in the event that the Appellants’ project is not exempt from the requirements of chapter 21.17 RZC, the very purpose of requesting a deviation from those requirements is to have the application considered under the applicable criteria for the granting of a deviation. Simply citing to the alleged standard that is the subject of the deviation request, without addressing the deviation criteria is clear error and circular reasoning.
- After erroneously concluding that the undergrounding of utilities is required by chapter 21.17 RZC, the Decision contains no reference to, or any analysis regarding, whether the project merits the approval of a deviation other than to observe that other projects in the vicinity are scheduled to have underground utilities. This latter observation fails to account for the unique aspects of the Subject Property and the project itself, as set forth in the Deviation Application, including the presence of a corner lot, the need for additional utility poles to underground the utilities, among others.
- The Decision omits any reference whatsoever to any applicable deviation decision criteria. Nonetheless, to the extent any such criteria exist, the proposal meets the criteria for the reasons set forth in the Deviation Application and fails to justify its denial by explaining why it doesn’t meet any applicable decision criteria. In the event that the City has no criteria for granting deviation requests, but the City nonetheless allows the filing,

¹ See e.g., RZC 21.08.360(A)(2) (defining “single-family housing” in the Residential Innovative Zone to include “smaller dwelling units such as a cottage, size-limited dwelling or duplex.”). Cf. RZC 21.08.070 (stating that the purpose of the RIN Zone is to “promote single-family housing” & RZC 21.08.070B (allowing duplexes as a permitted use in the RIN zone).

payment for, and processing of, said applications, the application should be approved as no criteria exist to justify a denial.

Although it does not appear that any applicable decision criteria are codified in City Code, the City does have a permitting bulletin on its website that references certain decision criteria for a deviation, namely the following:

- The deviation produces a comparable or improved result, which is in the public interest;
- The deviation meets requirements for safety, public health, function, fire protection, transit needs, appearance, maintainability, and any other criteria deemed relevant by the city;
- The deviation provides substantially equivalent (or improved) environmental protection as would be provided if the standard requirements were met;
- The deviation needs to reflect sound engineering practices;
- The deviation needs to avoid damage to other properties in the vicinity of and downstream of the proposal;
- Any deviation from the Standards that does not meet the Fire Code will require concurrence by the City Fire Marshal.
- As applicable for Overlake and Downtown RZC 21.76.070C Administrative Design Flexibility.

It is unclear if the above decision criteria apply to the requested deviation. Nor is it clear that the above criteria are codified anywhere in City Code. As such, Appellants reserve the right to assert their inapplicability to this matter. Nonetheless, out of the abundance of caution, Appellants address these criteria.

As indicated, this project should be exempt from any requirement to underground overhead utilities. However, in the event that the City concludes that the project is not exempt, a deviation should be granted that allows existing utilities to remain in their current location.

a. The deviation produces a comparable or improved result, which is in the public interest.

Granting the Appellants' deviation request will not produce a mere "comparable" result to the undergrounding of overhead utilities, but will actually produce an improved result that is more consistent with the intent of RZC 21.17.020.

As documented by Mr. Korasani in the Deviation Application, and as confirmed by PSE therein, as a result of the configuration of the existing overhead utilities, the successful undergrounding of said utilities would actually require the installation of three additional utility poles—a result directly contrary to the intent of RZC 21.17.020. Specifically, per RZC 21.17.020, the purposes of requiring the placement of utilities underground, include (1) "[r]emov[ing] utility poles which

are a hazard along streets,” and (2) “[i]mprov[ing] the appearance and aesthetics of the public ways.”

Clearly, mandating the undergrounding of utilities, which would require the addition of three utility poles for this project, is directly contradictory to each of the above goals. Rather than removing safety hazards, such a project would actually decrease public safety and create new hazards. Moreover, the addition of three new unsightly utility poles would not improve the appearance and aesthetics of the public ways, but would only serve to exacerbate any real or perceived public concern regarding aesthetics. In short, the granting of the Deviation Application is in the public interest.

Additionally, allowing existing overhead utilities to remain is consistent with the intent of the zone in which the Subject Property is located, specifically the RIN Zone. As indicated above, the very purpose of the RIN Zone is to promote the construction of comparably smaller, more affordable, residential units than other sectors of the City. Such housing stock is desperately a needed commodity in light of the torrid pace of housing costs in Redmond. As documented by Mr. Korasani, undergrounding utilities for this project, in light of the configuration of existing overhead utilities, will cost in excess of \$100,000, or approximately 20% of the entire cost of the proposed duplex. This exorbitant cost is not objectively reasonable, especially in light of the demonstrable lack of corresponding benefit. Worse, a substantial portion of these costs are the direct result of the City’s decision in 2016 to approve a utility design for the development of the adjoining property to the south, which resulted in the installation of a new utility pole in the street frontage on the Appellants’ property—a utility pole that the Appellants are now being required to remove at their own expense. Here, requiring the undergrounding of utilities, which would be cost prohibitive (with little or no public benefit), and result in inequitable cost-shifting from one property owner to another, is not in the public interest.

b. The deviation meets requirements for safety, public health, function, fire protection, transit needs, appearance, maintainability, and any other criteria deemed relevant by the City.

The deviation also meets the requirements for safety, public health, function, fire protection, transit needs, appearance, maintainability, and any other criteria deemed relevant by the City.²

First, as indicated above, as a result of the configuration of the existing overhead utilities, the successful undergrounding of utilities at this site would actually require the installation of three additional utility poles—a result that actually poses a greater risk to public safety. As indicated, one of the express purposes of requiring the undergrounding of utilities is to “[r]emove utility poles which are a hazard along streets.” *See* RZC 21.17.020. By definition, the addition of utility poles, which would be required to successfully underground utilities at this site, would

² To the extent that this criterion is construed to allow the City to arbitrarily add any other approval criteria it deems relevant, it would clearly violate the Appellants’ state and federal constitutional rights of due process and rudimentary notions of fundamental fairness.

exacerbate concerns regarding safety and public health. In short, granting the deviation request would undoubtedly meet requirements for safety and public health.

Second, allowing the existing overhead utilities to remain will not compromise their intended function, which is to supply electricity and communications to the proposed duplex.

Third, it does not appear that the deviation request has any known or significant impact to fire protection or transit needs.

Next, granting the deviation request would meet requirements for appearance. Again, the addition of three utility poles would be contrary to the express purposes of requiring the undergrounding of utilities, specifically to “[i]mprove the appearance and aesthetics of the public ways.” *See* RZC 21.17.020. Accordingly, granting the deviation request is preferable for purposes of appearance.

Finally, the granting of the variance will presumably facilitate better maintenance of the utilities. In particular, in those rare events when maintaining or repairing utilities is necessary, overhead utilities are much more convenient, accessible, and less expensive to maintain than comparable utilities located underground.

In summary, the Deviation Application meets the requirements for safety, public health, function, fire protection, transit needs, appearance, and maintainability.

c. The deviation provides substantially equivalent (or improved) environmental protection as would be provided if the standard requirements were met.

The granting of the Deviation Application will also provide substantially equivalent, and presumably greater, environmental protection. Again, as a result of the configuration of the existing overhead utilities, the successful undergrounding of said utilities would actually require the installation of three additional utility poles—poles that have associated environmental impacts.³

As the City is aware, utility poles are treated with preservatives to protect them from insects, fungi, and fires. The most common type of utility pole preservatives are chromate copper arsenate (CCA) and creosote, both of which pollute our waters. It’s estimated that of the 135 million poles in service today in the United States, 80% are treated with CCA and 17% with creosote.

CCA consists of the oxides or salts of copper, chromium, and arsenic. The arsenic and copper are poisonous to insects and fungi that prey on wood. It is produced using aluminum chloride or

³ *See, e.g.,* Anders Wood, *et al.*, *The Environmental Impact of Utility Poles*, <https://engineering.dartmouth.edu/~d30345d/courses/engs171/UtilityPoles.pdf>

ferric chloride as catalysts for the chlorination of phenols. Arsenic is a heavy metal that can contaminate air and water with very low concentrations.

Creosote is produced by the high temperature carbonization of coal and consists principally of aromatic hydrocarbons plus some tar acids and bases. Just as efforts to remove creosote pilings are essential to restoring the Puget Sound and associated waterways, creosote from upland sources, such as utility poles, can also leach and eventually enter our stormwater systems and pollute our waterways. The EPA has labeled creosote a potential carcinogen and sharply limited its use.

There can be little doubt that granting the deviation, which will avoid the installation of three new utility poles, will better protect the environment by saving the timber for the poles themselves and avoiding the unnecessary use of CCA or creosote which can pollute our waters. Allowing the utilities to remain overhead will also lessen the amount of grading within the right of way, and the associated risks of stormwater runoff during construction, among other obvious environmental benefits.

d. The deviation needs to reflect sound engineering practices.

The granting of a deviation reflects sound engineering practices. Although this criterion is inherently subjective, as documented by Mr. Korasani, the proposal to maintain existing overhead utilities is based upon solid reasoning and logic, thorough knowledge and experience, and technically correct premises. The fact that this deviation reflects sound engineering practices is best evidenced by the fact that PSE approved the configuration of, and installed, the existing utilities.

Any requirement to add additional power poles in an unprotected and undeveloped sidewalk area across 134th Ave NE, which would be necessary to underground the existing overhead utilities, would not meet the intent of the sound engineering practices. Moreover, the final outcome of a sound engineering design should include an analysis of public safety, which strongly militates in favor of avoiding the addition of more utility poles in the vicinity.

e. The deviation needs to avoid damage to other properties in the vicinity of and downstream of the proposal.

Granting the deviation will also avoid damage to other properties in the vicinity of the Subject Property. First, as indicated above, avoiding the installation of three new utility poles will avoid adverse impacts to neighborhood aesthetics, character, and property values.

Maintaining existing overhead utilities will limit construction within the right of way and presumably reduce any inconvenience to owners of properties in the vicinity and impairment of the public streets and rights of way during construction.

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In summary, by allowing the Appellants to maintain the status quo with respect to the overhead utilities, the granting of the deviation will necessarily avoid damage to existing properties in the vicinity.

- f. Any deviation from the standards that does not meet the Fire Code will require concurrence by the City Fire Marshal.**

It does not appear that the deviation request has any known or significant impact to fire protection or would otherwise fail to meet Fire Code.

- g. As applicable for Overlake and Downtown RZC 21.76.070C Administrative Design Flexibility.**

It does not appear that regulations in the Overlake or Downtown Zones would apply to the Deviation Application.

- 3. Relief Requested. See RZC 21.76.060(I)(2)(b)(iii)**

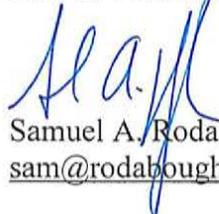
The Appellants respectfully request that the Hearing Examiner grant the appeal, and/or grant the appeal with modifications. See RZC 21.76.060(I)(4)(stating the scope of Hearing Examiner's authority to grant relief in an appeal). Specifically, the Appellants request that the Examiner conclude that the project is exempt from any requirement to underground utilities under RZC 21.17, or, if not exempt, grant a deviation allowing the utilities to remain overhead.

- 4. Any Other Information Reasonably Necessary to Make a Decision on the Appeal. See RZC 21.76.060(I)(2)(b)(iv)**

Appellants have no additional information at this time, but reserve the right to supplement their appeal as warranted by the circumstance.

Sincerely,

LAW OFFICE OF SAMUEL A. RODABOUGH PLLC



Samuel A. Rodabough
sam@rodaboughlaw.com

Exhibit A



May 18th, 2017

Hamid Korasani
Sazei Design Group, LLC
6608 110th Ave Ne
Kirkland, WA 98033

Via Email: hamidkorasani@yahoo.com

Subject: **Response to undergrounding overhead utilities Deviation Request (DEVREQ-2017-00464) for the for the Tom Short Duplex on Parcel No. 1246700231**

Dear Mr. Korasani:

The City of Redmond received your letter dated May 4, 2017 requesting a deviation on undergrounding overhead utilities as required for your duplex project. The City of Redmond Technical Committee considered the deviation request and has decided to deny your request.

Per Redmond Zoning Code 21.17.020, undergrounding overhead utilities is required except for single-family house or minor residential development. The project is not a single-family house, nor a minor residential development, which is defined as remodeling or addition development. In addition, almost all the overhead utilities on 134th Ave NE have or scheduled to be underground except for your lot and the one to the North. Based on the above city code requirement and justification, the Technical Committee is requiring you to underground the overhead utilities along NE 100th Street and along 134th Avenue NE. Please work with Puget Sound Energy to have this work done. The PSE plans will need to be submitted to the City as a part of your frontage improvements plans for civil review.

In reviewing your request, the Technical Committee considered the requirements of Redmond Zoning Code 21.17.030. The development contributes to the need for the required improvements. The proposed project triggers undergrounding of overhead utilities per 21.17.020 and does not meet the exemption as it is not a single family home or minor residential development. The project will have vehicular access along both frontages of the lot. The project is only being required to provide undergrounding for the frontages of the lot, in rough proportion to the overall undergrounding of utilities in the neighborhood. Other measures listed in 21.17.030 will leave a gap in the neighborhood undergrounding that is



taking place (described in the previous paragraph) and shift the burden of undergrounding to the City or PSE, which is not in the public interest.

The Technical Committee's decision may be appealed to the Hearing Examiner by filing an appeal with the Planning and Community Development Department within fourteen (14) calendar days of the date of the reconsideration decision. Appeal forms are available on-line at www.redmond.gov. A completed appeal form must be submitted by 5:00 p.m. on the last day of the appeal period.

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

Sincerely,

A handwritten signature in cursive script that reads "Lisa W. Rigg".

Lisa Rigg, P.E.
Development Engineering Manager

Cc: Rob Crittenden, P.E., Traffic Operations Manager, Public Works
Don Cairns, P.E., Transportation Planning Manager
Min Luo, P.E., PTOE, PTP, Senior Transportation Engineer
Andy Chow, P.E., Senior Transportation Engineer
Colin Sherrill, Associate Engineer
Brittany Wise, Administrative Specialist

Exhibit B



SAMUEL A. RODABOUGH
ATTORNEY AT LAW
11820 NORTHUP WAY, STE. E200
BELLEVUE, WA 98005
(425) 440-2593
(425) 635-7799 (FAX)

May 5, 2017

Via Hand Delivery & E-Mail

Steven Fischer, Planning Manager
Planning and Community Development
City of Redmond
15670 NE 85th St.
Redmond, WA 98073
sfischer@redmond.gov

Cameron Zapata, Planner
Planning and Community Development
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15670 NE 85th St.
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pmnorman@redmond.gov

Lisa Rigg, Engineering Manager
Planning and Community Development
City of Redmond
15670 NE 85th St.
Redmond, WA 98073
lrigg@redmond.gov

Re: Deviation Request, DEVREQ 2017-00148
Tom Short Duplex

To whom it may concern,

This Firm represents Thomas Short, Jr. & Andrea Short, husband and wife (collectively "Short"), the owners of residential real property located at 13404 NE 100th St., Redmond, WA 98033, also known as King County Tax Parcel No. 1246700231 ("Subject Property"). This letter supplements a revised application on behalf of my clients for a deviation request submitted by Hamid Korasani, P.E. of SAZEI Design Group, LLC, dated May 5, 2017. The deviation request seeks relief from the requirement to underground certain utilities for the above project. The primary purpose of this letter is to address the deviation criteria set forth in the permit bulletin on the City's website.¹

¹ See City of Redmond, Procedures for Requesting and Approving Engineering Deviation Requests, located at <http://www.redmond.gov/common/pages/UserFile.aspx?fileId=206032> (revised December 14, 2016). The undersigned was instructed to address these uncodified criteria in phone conversations with City employees Paulette Norman, P.E., Engineering Manager and Steven Fischer, Planning Manager, on March 23 and April 17, 2017, respectively. My clients reserve the right to assert any defense to the legality of these uncodified criteria or their applicability to my clients' project or deviation request.

A. My Clients' Project is Exempt from the Requirement to Underground Utilities.

As an initial matter, my clients' project should not require a deviation, as it is exempt from the requirement to underground utilities under RZC 21.17.020. The City's attempt to impose such a requirement here contravenes applicable City Code.

Specifically, the subject property is located within the Residential Innovative Zone ("RIN Zone"). The express purpose of the RIN Zone is to "promot[e] diversity in the size, **type**, and **price** of new single-family homes." RZC 21.08.070 (emphasis added). Critically, for purposes of the RIN Zone, duplexes are expressly considered single-family homes. *See* RZC 21.08.360(A)(2) (defining "single-family housing" in the RIN Zone to include "smaller dwelling units such as a cottage, size-limited dwelling or **duplex**")(emphasis added). *Cf.* RZC 21.08.070B (allowing duplexes as a permitted use in the RIN Zone). Categorizing duplexes as single-family homes in the RIN Zone is presumably for the purpose of ensuring the desired and aforementioned diversity of the **type** and **price** of housing stock available in the RIN Zone.

As indicated, the undergrounding of utilities is governed by RZC 21.17.020. The City has a past pattern or practice of interpretation and application of RZC 21.17.020 that has excluded the construction of single-family residences or minor residential development from its requirements. Indeed, the City's prior denial² of my clients' deviation request, dated March 3, 2017, reflects the City's longstanding interpretation of RZC 21.17.020: "Per Redmond Zoning Code 21.17.020, undergrounding overhead utilities is required except for single-family house or minor residential development." However, as indicated above, for purposes of the zone in which the Subject Property is situated, duplexes are expressly defined as single-family residences. *See* RZC 21.08.360(A)(2) (defining "single-family housing" in the RIN Zone to include "smaller dwelling units such as a cottage, size-limited dwelling or **duplex**")(emphasis added). As such, my clients' project should be exempt from any requirement to underground overhead utilities.

Alternatively, if the City concludes that the project is not exempt from the requirement to underground overhead utilities in RZC 21.17.020, my clients respectfully request that the City grant a deviation from any such requirement. The criteria for granting a deviation request are as follows:³

- The deviation produces a comparable or improved result, which is in the public interest.
- The deviation meets requirements for safety, public health, function, fire protection, transit needs, appearance, maintainability, and any other criteria deemed relevant by the City.

² In a letter, dated April 15, 2017, the City "rescinded" its prior denial of the deviation request.

³ *See* footnote 1 above.

Planning and Community Development, City of Redmond
May 5, 2017
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- The deviation provides substantially equivalent (or improved) environmental protection as would be provided if the standard requirements were met.
- The deviation needs to reflect sound engineering practices.
- The deviation needs to avoid damage to other properties in the vicinity of and downstream of the proposal.
- Any deviation from the standards that does not meet the Fire Code will require concurrence by the City Fire Marshal.
- As applicable for Overlake and Downtown RZC 21.76.070C Administrative Design Flexibility.

As explained in greater detail herein, my clients' deviation request meets each of these criteria.

B. If the Project is Not Exempt from the Requirement to Underground Overhead Utilities, a Deviation Should Be Granted Allowing Existing Overhead Utilities to Remain.

As indicated, this project should be exempt from any requirement to underground overhead utilities. However, in the event that the City concludes that the project is not exempt, a deviation should be granted that allows existing utilities to remain in their current location.

1. The deviation produces a comparable or improved result, which is in the public interest.

Granting my clients' deviation request will not produce a mere "comparable" result to the undergrounding of overhead utilities, but will actually produce an improved result that is more consistent with the intent of RZC 21.17.020.

As documented by Mr. Korasani in the revised deviation request, and as confirmed by Puget Sound Energy therein, as a result of the configuration of the existing overhead utilities, the successful undergrounding of said utilities would actually require the installation of three additional utility poles—a result directly contrary to the intent of RZC 21.17.020. Specifically, per RZC 21.17.020, the purposes of requiring the placement of utilities underground, include (1) "[r]emov[ing] utility poles which are a hazard along streets," and (2) "[i]mprov[ing] the appearance and aesthetics of the public ways."

Clearly, mandating the undergrounding of utilities, which would require the addition of three utilities poles for this project, is directly contradictory to each of the above goals. Rather than removing safety hazards, such a project would actually decrease public safety and create new hazards. Moreover, the addition of three new unsightly utility poles would not improve the appearance and aesthetics of the public ways, but would only serve to exacerbate any real or perceived public concern regarding aesthetics. In short, the granting of my clients' deviation request is in the public interest.

Additionally, allowing existing overhead utilities to remain is consistent with the intent of the zone in which the Subject Property is located, specifically the RIN Zone. As indicated above, the very purpose of the RIN Zone is to promote the construction of comparably smaller, more affordable, residential units than other sectors of the City. Such housing stock is desperately a needed commodity in light of the torrid pace of housing costs in Redmond. As documented by my clients' engineer, Mr. Korasani, undergrounding utilities for this project, in light of the configuration of existing overhead utilities, will cost in excess of \$100,000, or approximately 20% of the entire cost of the proposed duplex. This absorbent cost is not objectively reasonable, especially in light of the demonstrable lack of corresponding benefit. Worse, a substantial portion of these costs are the direct result of the City's decision in 2016 to approve a utility design for the development of the adjoining property to the south, which resulted in the installation of a new utility pole in the street frontage on my clients' property—a utility pole that my clients are now being required to remove at their own expense. Here, requiring the undergrounding of utilities, which would be cost prohibitive (with little or no public benefit), and result in inequitable cost-shifting from one property owner to another, is not in the public interest.

2. The deviation meets requirements for safety, public health, function, fire protection, transit needs, appearance, maintainability, and any other criteria deemed relevant by the City.

The deviation also meets the requirements for safety, public health, function, fire protection, transit needs, appearance, maintainability, and any other criteria deemed relevant by the City.⁴

First, as indicated above, as a result of the configuration of the existing overhead utilities, the successful undergrounding of utilities at this site would actually require the installation of three additional utility poles—a result that actually poses a greater risk to public safety. As indicated, one of the express purposes of requiring the undergrounding of utilities is to “[r]emove utility poles which are a hazard along streets.” See RZC 21.17.020. By definition, the addition of utility poles, which would be required to successfully underground utilities at this site, would exacerbate concerns regarding safety and public health. In short, granting the deviation request would undoubtedly meet requirements for safety and public health.

Second, allowing the existing overhead utilities to remain will not compromise their intended function, which is to supply electricity and communications to the proposed duplex.

Third, it does not appear that the deviation request has any known or significant impact to fire protection or transit needs. However, in the event that the City concludes otherwise, my clients

⁴ To the extent that this criterion is construed to allow the City to arbitrarily add any other approval criteria it deems relevant, it would clearly violate my clients' state and federal constitutional rights of due process and rudimentary notions of fundamental fairness.

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May 5, 2017
Page 5 of 7

respectfully request the opportunity to address those issues and respond to the City's feedback prior to the rendering of any deviation on their deviation request.

Next, granting the deviation request would meet requirements for appearance. Again, the addition of three utility poles would be contrary to the express purposes of requiring the undergrounding of utilities, specifically to "[i]mprove the appearance and aesthetics of the public ways." See RZC 21.17.020. Accordingly, granting the deviation request is preferable for purposes of appearance.

Finally, the granting of the variance will presumably facilitate better maintenance of the utilities. In particular, in those rare events when maintaining or repairing utilities is necessary, overhead utilities are much more convenient, accessible, and less expensive to maintain than comparable utilities located underground.

In summary, my clients' deviation request also meets the requirements for safety, public health, function, fire protection, transit needs, appearance, and maintainability.

3. The deviation provides substantially equivalent (or improved) environmental protection as would be provided if the standard requirements were met.

The granting of my clients' deviation request will also provide substantially equivalent, and presumably greater, environmental protection. Again, as a result of the configuration of the existing overhead utilities, the successful undergrounding of said utilities would actually require the installation of three additional utility poles—poles that have associated environmental impacts.⁵

As the City is aware, utility poles are treated with preservatives to protect them from insects, fungi, and fires. The most common type of utility pole preservatives are chromate copper arsenate (CCA) and creosote, both of which pollute our waters. It's estimated that of the 135 million poles in service today in the United States, 80% are treated with CCA and 17% with creosote.

CCA consists of the oxides or salts of copper, chromium, and arsenic. The arsenic and copper are poisonous to insects and fungi that prey on wood. It is produced using aluminum chloride or ferric chloride as catalysts for the chlorination of phenols. Arsenic is a heavy metal that can contaminate air and water with very low concentrations.

Creosote is produced by the high temperature carbonization of coal and consists principally of aromatic hydrocarbons plus some tar acids and bases. Just as efforts to remove creosote pilings are essential to restoring the Puget Sound and associated waterways, creosote from upland

⁵ See, e.g., Anders Wood, *et al.*, *The Environmental Impact of Utility Poles*, <https://engineering.dartmouth.edu/~d30345d/courses/engs171/UtilityPoles.pdf>

sources, such as utility poles, can also leach and eventually enter our stormwater systems and pollute our waterways. The EPA has labeled creosote a potential carcinogen and sharply limited its use.

There can be little doubt that granting the deviation, which will avoid the installation of three new utility poles, will better protect the environment by saving the timber for the poles themselves and avoiding the unnecessary use of CCA or creosote which can pollute or waters. Allowing the utilities to remain overhead will also lessen the amount of grading within the right of way, and the associated risks of stormwater runoff during construction, among other obvious environmental benefits.

4. The deviation needs to reflect sound engineering practices.

The granting of a deviation reflects sound engineering practices. Although this criterion is inherently subjective, as documented by my clients' engineer, Mr. Korasani, the proposal to maintain existing overhead utilities is based upon solid reasoning and logic, thorough knowledge and experience, and technically correct premises. The fact that this deviation reflects sound engineering practices is best evidenced by the fact that Puget Sound Energy approved the configuration of, and installed, the existing utilities.

Any requirement to add additional power poles in an unprotected and undeveloped sidewalk area across 134th Ave NE, which would be necessary to underground the existing overhead utilities, would not meet the intent of the sound engineering practices. Moreover, the final outcome of a sound engineering design should include an analysis of public safety, which strongly militates in favor of avoiding the addition of more utility poles in the vicinity.

5. The deviation needs to avoid damage to other properties in the vicinity of and downstream of the proposal.

Granting the deviation will also avoid damage to other properties in the vicinity of the Subject Property. First, as indicated above, avoiding the installation of three new utility poles will avoid adverse impacts to neighborhood aesthetics, character, and property values.

Second, avoiding the requirement to underground existing utilities will limit construction within the right of way and presumably reduce any inconvenience to owners of properties in the vicinity and impairment of the public streets and rights of way during construction.

In summary, by allowing my clients to maintain the status quo with respect to the overhead utilities, the granting of the deviation will necessarily avoid damage to existing properties in the vicinity.

6. Any deviation from the standards that does not meet the Fire Code will require concurrence by the City Fire Marshal.

Planning and Community Development, City of Redmond
May 5, 2017
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It does not appear that the deviation request has any known or significant impact to fire protection or would otherwise fail to meet Fire Code. However, in the event that the City concludes otherwise, my clients respectfully request the opportunity to address those issues and respond to the City's feedback prior to the rendering of any deviation on their deviation request.

**7. As applicable for Overlake and Downtown RZC 21.76.070C
Administrative Design Flexibility.**

It does not appear that regulations in the Overlake or Downtown Zones would apply to my clients' deviation request. However, in the event that the City concludes otherwise, my clients respectfully request the opportunity to address those issues and respond to the City's feedback prior to the rendering of any deviation on their deviation request.

My clients and their engineer have worked tirelessly with the City to ensure a successful project that meets applicable standards. However, the requirement to underground existing overhead utilities for this project defies common sense and is cost prohibitive. My clients' deviation request is consistent with the applicable deviation criteria and should be granted. Please let me know if you require any further.

Sincerely,

LAW OFFICE OF SAMUEL A. RODABOUGH PLLC


Samuel A. Rodabough
sam@rodaboughlaw.com

Exhibit C

SAZEI Design Group, LLC6608 110th Ave. N. E.
Kirkland, WA. 98033

Tel: (425) 214-2280

May 4, 2017

Ms. Lisa Rigg, P.E.
Development Engineering & Construction Manager
City of Redmond MS: 2SPL
15670 NE 85th Street
PO Box 97010
Redmond, WA. 98073-9710

Project: **Building Permit Folder # BPLN-2015-02128**
Owner: Tom and Andrea Short
Project Address: 13404 NE 100th Street Redmond, WA. 98033
Parcel # 1246700231—Zoning: RIN
Project Scope: Demolition of existing house & Construction of New Home

Subject: **REVISED Deviation Request to obtain approval to Leave "Overhead Power & Communication lines as existing and not to underground them".**

Dear Ms. Rigg,

Subsequent to your letter dated April 17th, 2017 (Copy Attached) in regards to rescinding the previous decision by the City Technical Committee via formal decision letter dated March 03, 2017, We are hereby submitting our revised/amended "Deviation Request" to seek administrative approval to exempt the above referenced project as a "Minor, affordable Residential Development" from requirements of undergrounding "Overhead Power & Communication Lines along public right-of-way as a part of the frontage improvements.

PROJECT SUMMARY

File Number: Building Permit Folder: BPLN-2015-02128

Location of 13404 NE 100th Street, Redmond, Washington 98033

Property: Identified by King County Assessor tax parcel number 1246700231

Zoning District: RIN—Willows/Rose Hill Neighborhood

As we discussed during several meeting(s) and follow up correspondences with Paulette Norman, former engineering manager, Steve Fischer, planning manager, Colin Sherril, civil engineer, and Andy Chow, Civil engineer, the "owner of this property" strongly feels that such high cost burdens of undergrounding the overhead lines along (2) street frontage is excessive and considered unfair for a single home owner to absorb such "WIDE SPREAD

COST” when developing his site to build a family home; furthermore, installation of three additional poles would be required due to existing configuration of the overhead utilities which creates more obstacles undermining the original goals on undergrounding such lines. Project proposes construction of a Family duplex that is located on an existing single-family corner lot and is not to be subdivided.

I. Description of Deviation

The request for this deviation is to exempt the requirements for undergrounding utility lines along the TWO public right-of-ways of this project due to increasing complexities by having to install (3) additional power poles, deterring from aesthetic goals, minimizing public safety, and the high cost burdens for the proposed minor residential development.

Property owner has been advised that as a part of the frontage improvement package, the overhead distribution lines along 134th Ave NE and NE 100th Street need to be undergrounded for constructing their NEW home on existing residential lot. This deviation and the related supporting documents are in reference to City of Redmond Comprehensive Plan (UT-14; UT-15) and Redmond Zoning Code (RZC 21.54). Redmond Zoning Code section (RZC 21.54.020(B)(1) clearly indicates exemption for minor residential facilities and single family residence. Furthermore, as stated under current RZC 21.17.020 developments within the Residential Innovative Zone (“RIN Zone”) are promoted to create diversity in Size, type, and price for new single family homes. RZC 21.08.360 (A)(2) clearly defines “Single Family Housing” in the RIN Zone to include smaller dwelling units such as cottage, size-limited dwelling or **duplexs**, as a result, categorizing duplexs as single family homes in RIN zones ensures the desired planning goals and diversity of the size, type, and price range of housing products in this zone.

Frontage improvements along 134th Ave NE in front of this subject property have been partially constructed by the previous development to the North. Along the South property line, there is currently no ditch or side walk on NE 100th street; however the owner is committed to provide street frontage improvement including: sidewalk, drainage ditch, landscaping, etc. Plans for street frontage improvements (copies attached as a reference) per standards of City of Redmond have been submitted for permit and is pending resolution of this deviation so it can be reviewed and processed.

II. The code citation of the Standards from which the application proposes to deviate

Redmond Zoning Code requires street improvements for all new construction including single-family residence. Street improvements depend on existing conditions. Generally, improvements consist of constructing ½ street improvements that may include curb, gutter, ditch, planter strip, sidewalks, storm drainage, streetlights, and undergrounding overhead utilities.

City of Redmond Zoning Code RZC 21.17.020 clearly excludes the construction of single family residences or minor residential developments from the requirements of undergrounding the overhead utilities; and since this project is categorized and considered minor residential development as defined under RIN zoning code, should therefore be exempt from undergrounding requirements to bury utility distribution lines along public right-of-way. This type of development will still be required to underground service lines within the site to the connection point at the utility pole. The main reason for approving this exemption that was initiated by Planning Commission and the City Council in 2011, is in response to

observations that minor residential development, can be burdened with disproportionately high costs relating to utility undergrounding. Typical costs for undergrounding utility distribution lines, as part of a new construction of this type of minor residential development, may range from \$30,000 to \$65,000 which can be a large portion of the overall project cost of undergrounding the entire corridor. Undergrounding the overhead lines in front of this property will cost in excess of \$100,000, or approximately 20% of the entire cost of the building that exceeds the range of costs indicated above due to complexity of existing conditions and having to re-install three additional poles as described below and confirmed by Puget Sound Energy (PSE) engineering department.

III. Must demonstrate how the standards can be met

In order to underground overhead utilities lines, the power pole at the corner of 134th Ave NE and NE 100th Street needs to be removed as confirmed by PSE. Removal of this pole will require installation of three new poles at the edges of where the underground conversion will go as follows:

A-One at the NW corner of this lot

B- One at the SE corner of this lot

C- One on the other side of 134th Ave NE (West shoulder)

Due to the new development on the south side of this property, an additional power pole has since been installed which also needs to also be removed as a result of this overall conversion (Please refer to email form PSE dated January 4th and photo exhibit "A"). Prior to September of 2016, there was ONLY ONE power pole located at the Northeast corner of 134th Ave NE and NE 100 Street. We discovered that the trees were cut/trimmed and a NEW Power Pole had been installed along the west side of the subject property on 134th Ave NE . We contacted PSE and Frontier to find out about this new pole and we were told that the new pole was installed because the plat under construction to the south of this property needed to remove a guy pole on their side of the street; as a result a new pole needed to be installed on our side of the street making the undergrounding for this property even more complex and with added costs. (Please refer to email form PSE dated January 24th and photo exhibit "B").

IV. Provide alternatives to minimize the deviation

It is clear that mandating the undergrounding of utilities, which would require the addition of three utilities poles for this project, is directly contradictory to each of the Redmond Zoning Code RZC 21.17.020 goals. Instead of removing safety hazards, such a project would actually decrease public safety and create new hazards. Moreover, the addition of three new unsightly utility poles would not improve the appearance and aesthetics of the public ways, but would only serve to exacerbate any real or magnified public concern regarding aesthetics. Therefore, the granting the deviation request is in the public interest.

City of Redmond comprehensive plan directs the City and Private developers to relocate new and existing utility distribution and service lines underground to promote aesthetics; safety and security; and environmental quality; the ultimate goal of this program can not be achieved since removal of "ONE" pole would require installation of "THREE" additional poles contrary to the global intend of this program.

This deviation will have an impact on other properties in the vicinity of the Subject Property as described below. It is apparent that, avoiding the installation of three new utility poles will avoid adverse impacts to neighborhood aesthetics, character, and property values.

Furthermore, avoiding the requirement to underground existing utilities will limit construction within the right of way and presumably reduce any inconvenience to owners of properties in the vicinity and impairment of the public streets and rights of way during construction.

It should also be noted that street improvements along 134th Ave NE has been recently done and undergrounding existing aerial lines at this point would require removal of newly constructed frontage.

Granting this deviation and allowing the current conditions to maintain the status quo with respect to the overhead utilities, will avoid damage to existing properties in the vicinity.

V. Description of proposed alternatives along with supporting documentation

We are proposing the following alternates/improvements to compensate for the above listed deviation:

- This project proposes to develop the frontage street improvement along both 134th Ave Ne and NE 100th Street.
- To further enhance the vehicular and pedestrians safety, street lighting (if Required) is being proposed under this development.
- Additional Handicap access and ramp will be provided at the intersection of 134th Ave Ne and NE 100th Street.
- Pedestrian access will be improved by constructing new sidewalks ob both streets and around the corner of 134th Ave NE and NE100th Street
- Project proposes to install new drainage ditch along NE 100th Street as a part of the frontage improvements; this will also clean up several drainage catch basins (currently 7 existing catch basins-refer to survey attached) along NE 100th Street.
- Owner agrees to provide additional traffic signage to improve the traffic safety (where needed).
- Concrete crosswalks, per the City of Redmond Standard Details, will be installed along both streets as a part of the street improvement permit.
- This site is located within the residential area and is categorized as low traffic volume; there have been “NO” complaints on file related to the existing conditions of utility poles and associated components.
- This project is providing housing types that effectively serve the affordable housing needs of the Community City of Redmond promotes Innovative housing such as “Duplex” in the community where this project is being built.

VI. Exhibit(s) of the proposed design

Material(s) submitted with this request include:

- a. Proposed alternates letter
- b. Copy of the City of Redmond code reference
- c. Architectural Site plan
- d. Photo Exhibits “A”, “B”.
- e. Copy of email from PES, Puget Sound Energy engineer
- f. Copy of email by Andy Chow, City of Redmond Public Works Department
- g. Frontage improvement plans along NE 100th Street and 134th Ave NE

**VII. Documentation may include, but not limited to., a record of use by other agencies
Or evidence of meeting criteria for quality**

The deviation meets the quality standards and requirements for quality, safety, public health, function, fire protection, transit needs, appearance, maintainability, and any other criteria deemed relevant by the City.

Based on the configuration of the existing overhead utilities, the successful undergrounding of utilities at this site would actually require the installation of three additional utility poles—a result that actually poses a greater risk to public safety. As indicated *per* RZC 21.17.020, one of the express purposes of requiring the undergrounding of utilities is to **remove utility poles which are a hazard along streets**. By definition indicated *per* RZC 21.17.020, the addition of utility poles, which would be required to successfully underground utilities at this site, would compound additional concerns regarding quality, safety and public health; therefore, granting the deviation request without a doubt meet requirements quality, safety, and public health.

Granting this deviation will satisfy the reasoning exhibited or based on thorough knowledge and experience, which is logically valid and having technically correct premises that demonstrate good judgment or sense in the application of science. Having to add additional power poles in an unprotected and undeveloped sidewalk area across 134th Ave NE and NE 100th street as it would be required to underground the overhead utilities does not meet the intend of the sound engineering practices. Final outcome of a sound engineering design “MUST” include the life safety and protection of public as the serviceability requirements “Not creating hazardous conditions” which would ultimately result from undergrounding the powerlines at this particular location.

In summary, granting of this deviation and maintaining the overhead powerlines as existing will facilitate better maintenance of the utilities. In particular, in those rare events when maintaining or repairing utilities is necessary, overhead utilities are much more convenient, accessible, and less expensive to maintain than comparable utilities located underground.

**VIII. Applications for location of utilities by an entity allowed under a franchise agreement
Must be prepared and submitted by that entity**

The application for location of utilities would not apply to this deviation request. However, in the event that the City requires further information, we would respectfully request the opportunity to address those issues and respond to the City’s feedback prior to the rendering of any deviation on their deviation request.

We trust that this letter sufficiently addresses the request for exempting the overhead utilities so the construction of proposed residential facility can commence. If you have any questions regarding the work proposed or require further clarifications, please feel free to contact me at (425) 214-2280, or via e-mail at hamidkorasani@yahoo.com.

Sincerely,

SAZEI Design Group, LLC

Hamid Korasani

Hamid G. Korasani, P. E.

Principal



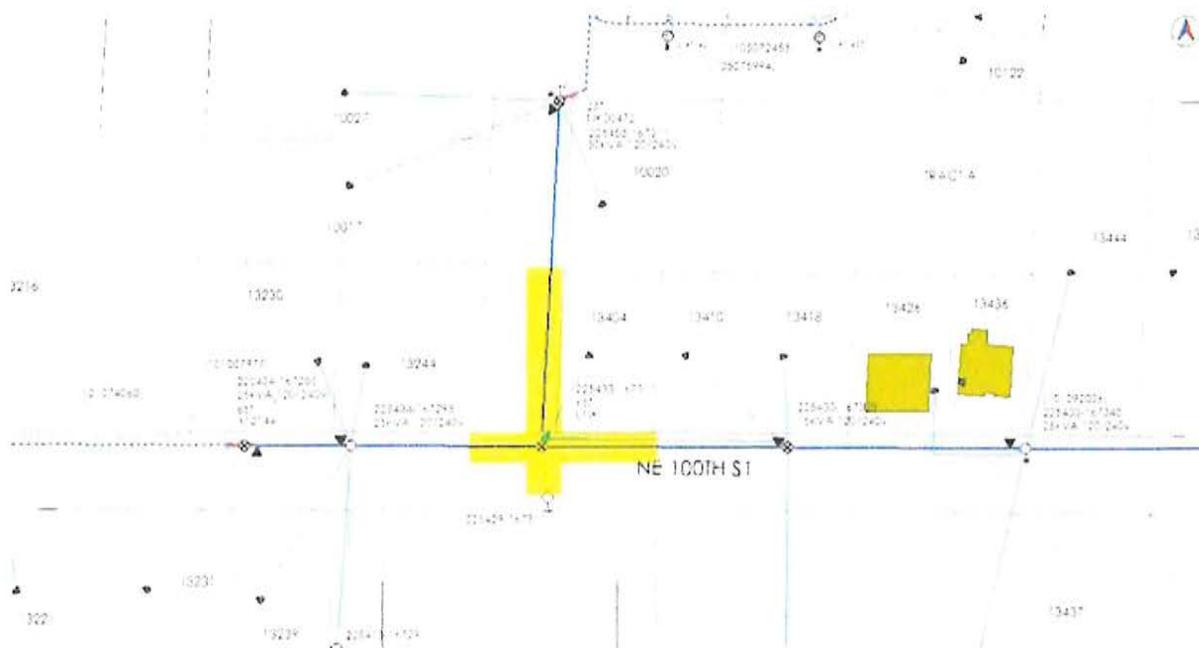
Johnson, Mike - Transmission <Mike.Johnson@pse.com>

To
hamidkorasani@yahoo.com

Jan 4 at 10:40 AM

Hi Hamid,

Below is a map of the overhead lines you would likely be responsible for converting underground if you redevelop your property at 13404 NE 100th St. While I cannot scope the project until an application is submitted and I've visited the site, typically in a project like this we would remove the pole at the corner of 134th and NE 100th St, and then set three new poles at the edges of where the underground conversion will go (one at the NW corner of your lot, one at the SE corner, and one on the other side of 134th).



Please let me know if you have any questions.

Thanks

Mike Johnson
Engineer
Customer & System Projects, PSE
Office: (425)462-3710
Cell: (206)430-0149
michael.johnson@pse.com

EXHIBIT "A"

NEKI POLE ADDED (NOV. 2016)
PSE - 225445
167 291

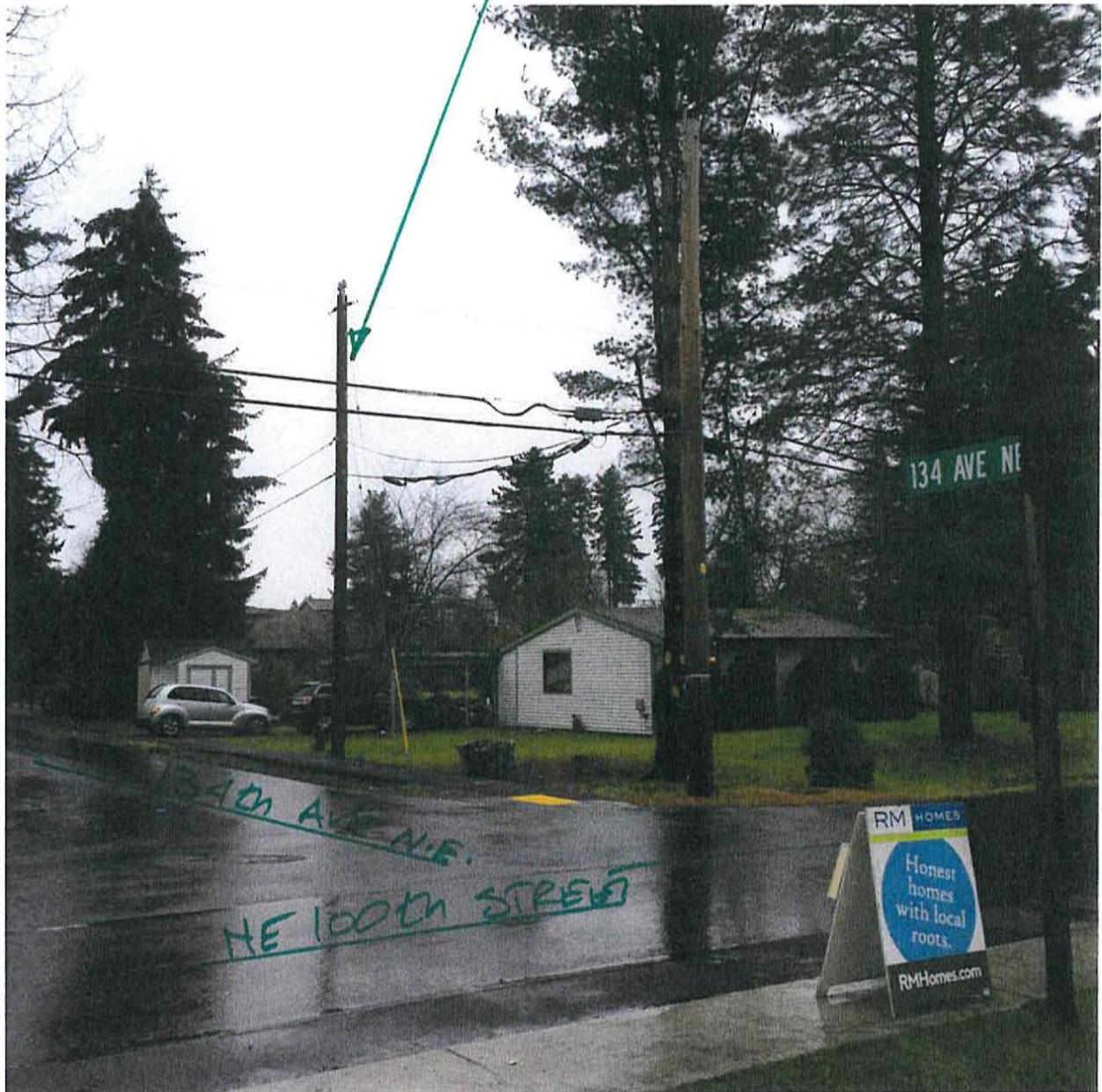


EXHIBIT "A"

TREES - CUT & TRIMMED BY PSE

NEW GUY POLE
INSTALLED
NOVEMBER
2010



EXHIBIT "A"

[Print](#) - [Close Window](#) - [Click More](#) at the bottom of the email to print single message

Subject: RE: Power OH/UG Conversion on NE 100th St
From: Johnson, Mike - Transmission (Mike.Johnson@pse.com)
To: hamidkorasani@yahoo.com;
Cc: Erik.Guerra@pse.com;
Date: Tuesday, January 24, 2017 2:04 PM

Hi Hamid,

Erik was able to find out some more about the new pole near your property. It was installed because the plat under construction to the south of your property needed to remove a guy pole on their side of the street. Because that pole needed to be removed, a new pole needed to be installed on your side of the street.

Please let me know if you have any questions.

Thanks

Mike Johnson

Engineer

Customer & System Projects, PSE

(425)462-3710

michael.johnson@pse.com

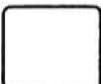
EXHIBIT "B"



NEW POLE ADDED (Nov. 2016)
PSE-225445
16 7291

EXHIBIT "B"





VICINITY MAP



ADDRESS

13404 NE 100TH ST
REDMOND WASHINGTON 98053

PARCEL NUMBER

174-0028

SITE/LEGAL DESCRIPTION

THE CITY OF SEATTLE HAS RECORDED A PLAT OF SUBDIVISION OF THE TRACT OF 1.00 ACRES OF SEATTLE AND PARKS LAND IN ADDITION TO THE CITY OF SEATTLE DIVISION NO. 1 AS PER PLAT RECORDED IN VOL. 25 OF PLATS PAGE 28 INCLUSIVE RECORDS OF KING COUNTY

LOT COVERAGE

LOT AREA 4,498.40 SF
GARAGE AREA 2,424.00 SF
TOTAL AREA 6,922.40 SF
25% ALLOWED

IMPERVIOUS AREA

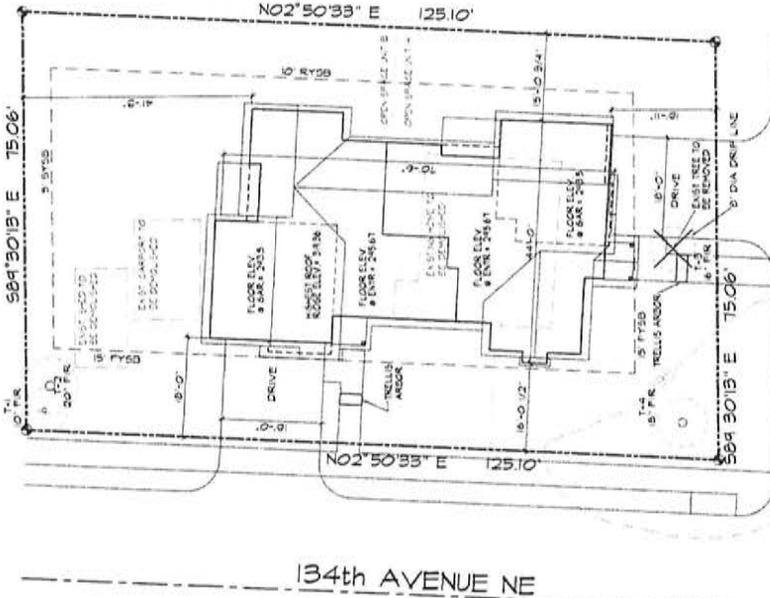
LOT AREA 4,498.40 SF
HOUSE/GARAGE AREA 2,424.00 SF
TOTAL IMPERVIOUS AREA 2,424.00 SF
DRIVEWAY/PARKING AREA 183.00 SF
TOTAL AREA 2,607.00 SF
60% ALLOWED

OPEN SPACE

LOT AREA 4,498.40 SF
HOUSE/GARAGE AREA 2,424.00 SF
OPEN SPACE INT A 3,074.40 SF
OPEN SPACE INT B 3,048.00 SF

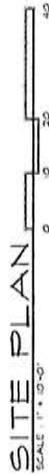
F.A.R.

BUILDING AREA 1,884.00 SF
TOTAL FLOOR AREA 4,305.00 SF
GARAGE 2,424.00 SF
TOTAL FLOOR AREA 6,729.00 SF
TOTAL LOT AREA 4,498.40 SF
PERCENTAGE OF LOT AREA 150.00%
ALLOWABLE GROSS FLOOR AREA (S.O.B.) 4,748.10 SF
ALLOWABLE GROSS FLOOR AREA 4,305.00 SF
PERCENTAGE OF LOT AREA 95.70%



NE 100TH STREET

134th AVENUE NE



SITE PLAN
SCALE 1" = 10'-0"

TOM SHORT Duplex
13404 NE 100TH STREET, REDMOND, WA 98053

SIGNIFICANT TREES		TREES WITHIN SITE INTERIOR	
No.	DIAMETER (SPECIES)	HEIGHT (FEET)	CONDITION
T-1	10" Dog Fz	10'	10'
T-2	20" Dog Fz	20'	20'
T-3	12" Dog Fz	12'	12'
T-4	18" Dog Fz	18'	18'
TOTAL		64'	48'

Site Elevation: 100.00 FT. (30.48 M)
Tree Height: 48' (14.63 M)

HEIGHT CALCULATION

WALL	HEIGHT	WIND	WIND	WIND
HEIGHT	WIND	WIND	WIND	WIND
0	71.80	20.00	10.00	10.00
1	44.00	20.00	10.00	10.00
2	44.00	20.00	10.00	10.00
TOTAL	211.80	110.00	60.00	60.00

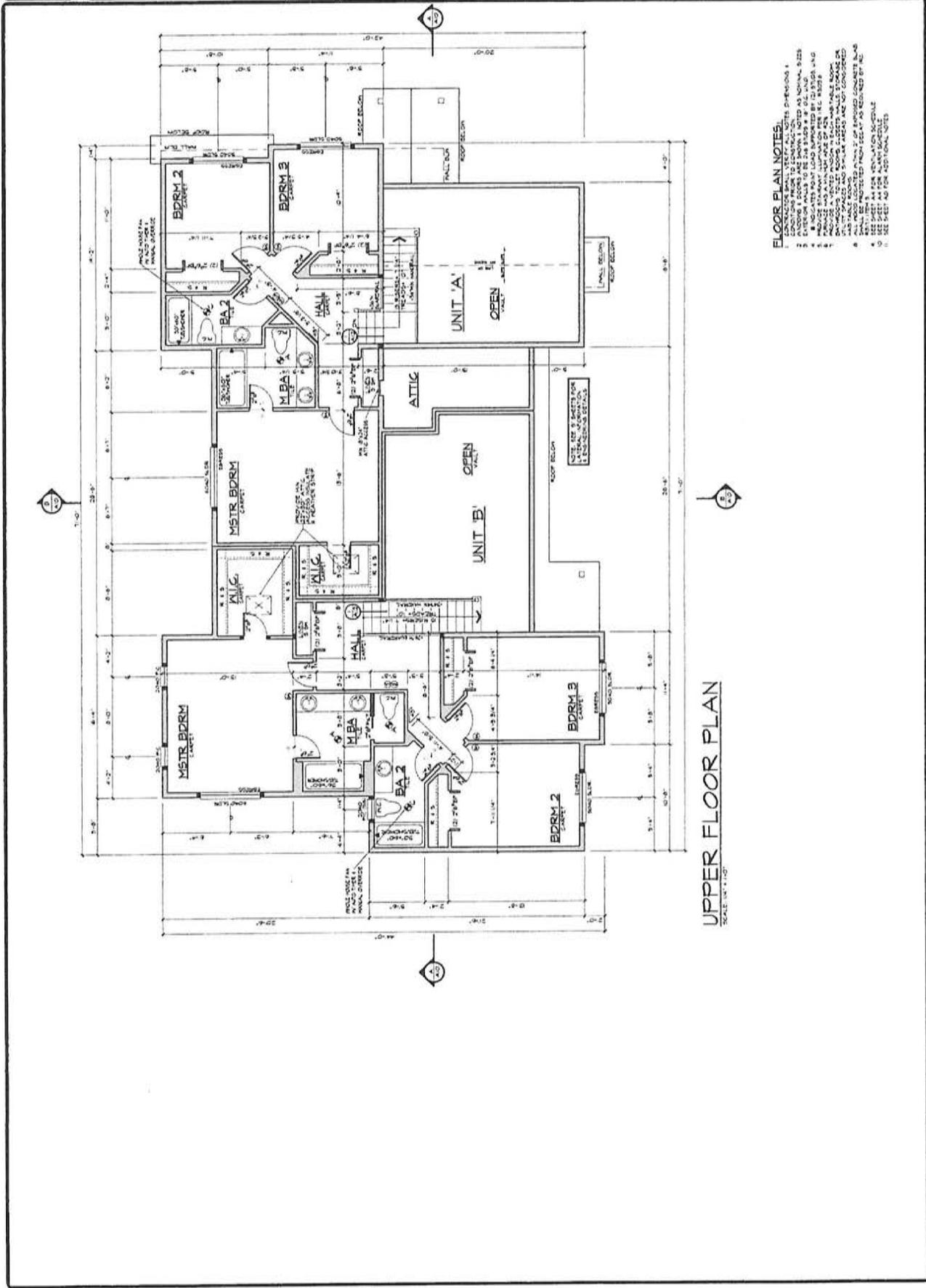
AVERAGE WIND SPEED = 10.00 MPH (16.09 KM/H)
WIND DIRECTION = 100° (EAST)
WIND SPEED = 10.00 MPH (16.09 KM/H)
WIND DIRECTION = 100° (EAST)
WIND SPEED = 10.00 MPH (16.09 KM/H)
WIND DIRECTION = 100° (EAST)

THOMAS AND ANDREA SHORT DUPLEX
13404 NE 100TH ST REDMOND, WA

SAZEI DESIGN GROUP, LLC
6608 110TH AVE, N.E.
KIRKLAND, WA 98033
TEL. (425) 212-2280
FAX. (425) 809-0587

EXHIBIT
A11
DATE: 10/20/2010
DRAWN BY: [Signature]
SCALE: 1" = 10'-0"

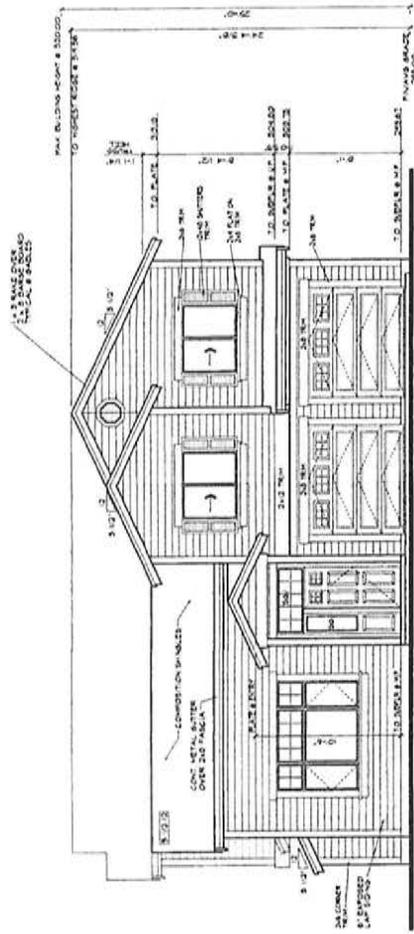
Upper Floor Plan



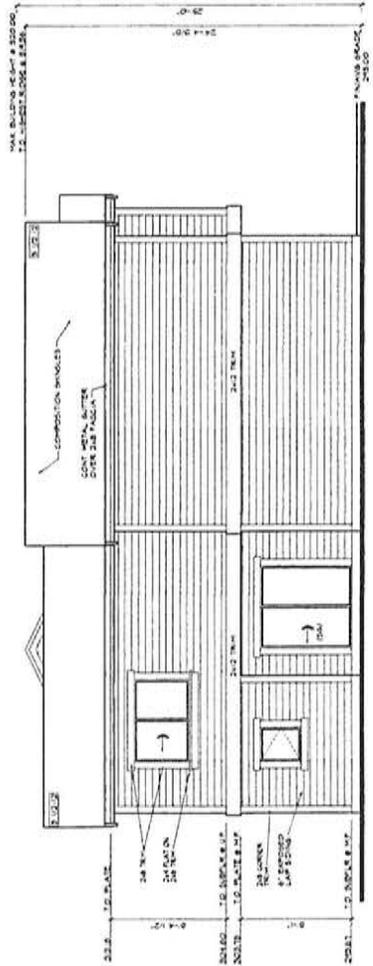
- FLOOR PLAN NOTES:**
1. CONSTRUCTION SHALL BE IN ACCORDANCE WITH THE DIMENSIONS & CONDITIONS SHOWN ON THIS PLAN.
 2. ALL DIMENSIONS ARE TO FACE UNLESS NOTED OTHERWISE.
 3. ALL ROOF SLOPES SHALL BE AS SHOWN OR AS NOTED.
 4. ALL ROOF LOADS SHALL BE AS SHOWN OR AS NOTED.
 5. ALL ROOF LOADS SHALL BE AS SHOWN OR AS NOTED.
 6. ALL ROOF LOADS SHALL BE AS SHOWN OR AS NOTED.
 7. ALL ROOF LOADS SHALL BE AS SHOWN OR AS NOTED.
 8. ALL ROOF LOADS SHALL BE AS SHOWN OR AS NOTED.
 9. ALL ROOF LOADS SHALL BE AS SHOWN OR AS NOTED.
 10. ALL ROOF LOADS SHALL BE AS SHOWN OR AS NOTED.

UPPER FLOOR PLAN
 SCALE: 1/4" = 1'-0"

North and South Elevations



SOUTH ELEVATION
 SCALE 1/4" = 1'-0"



NORTH ELEVATION
 SCALE 1/4" = 1'-0"

ELEVATION NOTES

1. FINISH TO MATCH EXISTING METAL WATER.
2. FINISH TO MATCH EXISTING METAL WATER.
3. FINISH TO MATCH EXISTING METAL WATER.
4. FINISH TO MATCH EXISTING METAL WATER.
5. FINISH TO MATCH EXISTING METAL WATER.
6. FINISH TO MATCH EXISTING METAL WATER.
7. FINISH TO MATCH EXISTING METAL WATER.
8. FINISH TO MATCH EXISTING METAL WATER.
9. FINISH TO MATCH EXISTING METAL WATER.
10. FINISH TO MATCH EXISTING METAL WATER.

WALL FLASHING NOTES:

1. APPROVED CONSTRUCTION DETAILS FOR FLASHING SHALL BE USED.
2. FLASHING SHALL BE INSTALLED TO PREVENT PENETRATION OF WATER TO THE BUILDING OR INTERIOR.
3. FLASHING SHALL BE INSTALLED TO PREVENT PENETRATION OF WATER TO THE BUILDING OR INTERIOR.
4. FLASHING SHALL BE INSTALLED TO PREVENT PENETRATION OF WATER TO THE BUILDING OR INTERIOR.
5. FLASHING SHALL BE INSTALLED TO PREVENT PENETRATION OF WATER TO THE BUILDING OR INTERIOR.
6. FLASHING SHALL BE INSTALLED TO PREVENT PENETRATION OF WATER TO THE BUILDING OR INTERIOR.
7. FLASHING SHALL BE INSTALLED TO PREVENT PENETRATION OF WATER TO THE BUILDING OR INTERIOR.
8. FLASHING SHALL BE INSTALLED TO PREVENT PENETRATION OF WATER TO THE BUILDING OR INTERIOR.
9. FLASHING SHALL BE INSTALLED TO PREVENT PENETRATION OF WATER TO THE BUILDING OR INTERIOR.
10. FLASHING SHALL BE INSTALLED TO PREVENT PENETRATION OF WATER TO THE BUILDING OR INTERIOR.

Andy Chow <kachow@redmond.gov>

To

Colin A. Sherrill Hamid Korasani

CC

Paulette M. Norman

Feb 2 at 4:33 PM

Hamid,

I also confirmed that the 150' driveway separation from local street intersection in the residential area will not be applied. So you don't need a deviation for driveway separation.

For street lighting, the Heather South (formerly Ellsworth) project south of 100th is required to provide street light improvements at 100th/134th intersection. If they go first, you will not be required for street light improvements.

Hope this will help.

Thanks,

Andy

VICINITY MAP



ADDRESS
3404 N 100TH ST
REDMOND, WASHINGTON 98033

PARCEL NUMBER
1248700281

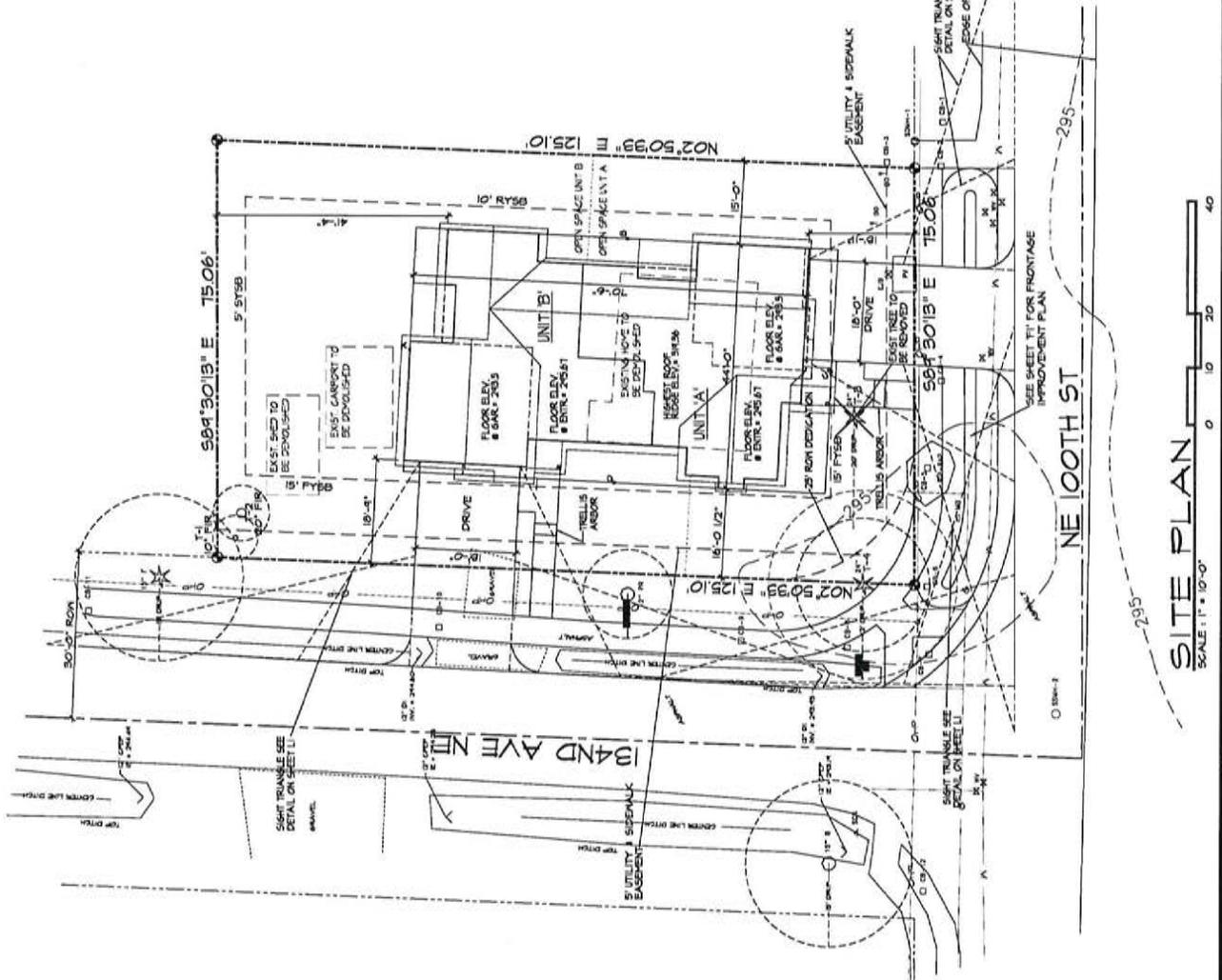
SITE/LEGAL DESCRIPTION
THE WEST 75 FEET OF THE SOUTH 125 FEET IN
BLOCK 194 OF BURKE AND FARRAR'S KINGSLAND
SUBDIVISION, PLAT 100,000, RECORDS OF KING
COUNTY, WASHINGTON, TOGETHER WITH THE
AS PER PLAT RECORDED IN VOL. 25 OF PLATS,
PHASE 26 INCLUSIVE, RECORDS OF KING COUNTY.

LOT COVERAGE STRUCTURES
LOT AREA: 4,494.40 S.F.
HOUSE/GARAGE AREA: 2,424.00 S.F.
TOTAL AREA: 2,925.00 S.F.
85% ALLOWED

IMPERVIOUS AREA
LOT AREA: 4,494.40 S.F.
HOUSE/GARAGE AREA: 2,424.00 S.F.
Porch/Patio/Deck Area: 35.00 S.F.
TOTAL IMPERVIOUS AREA: 2,459.00 S.F.
54.7%
60% ALLOWED

OPEN SPACE
LOT AREA: 4,494.40 S.F.
LOT COVERED BY (20%): 2,207.20 S.F.
OPEN SPACE UNIT A: 2,207.20 S.F.
OPEN SPACE UNIT B: 5,843.00 S.F.

F.A.R.
BUILDING AREA: 1,868.00 S.F.
UPPER FLOOR: 1,754.00 S.F.
GARAGE: 619.00 S.F.
TOTAL FLOOR AREA: 4,205.00 S.F.
65,000 S.F. FLOOR AREA ALLOWABLE ACROSS FLOOR AREA ROLN: 4,164.10 S.F.
PROPOSED 65,000 S.F. FLOOR AREA: 4,205.00 S.F.
PERCENTAGE OF LOT AREA: 44.27%



SITE PLAN
SCALE: 1" = 10'-0"

HEIGHT CALCULATION

WALL	HEIGHT	PERCENT	PRODUCT
A	10'	20%	2000
B	10'	20%	2000
C	10'	20%	2000
D	10'	20%	2000
E	10'	20%	2000
TOTALS	210'	100%	4200

AVERAGE GRADE = TOTAL PRODUCT / TOTAL WALL LENGTH
210' / 4200' = 0.05' PER FOOT

MAX. ALLOW. WALL HEIGHT = 21' MIN. * 20% AVG. BLOCK ELEV. = 4.2' MIN.
PROPOSED BLOCK ELEVATION = 21' MIN. * 20% = 4.2' MIN.

PROPOSED BLOCK ELEVATION = 21' MIN. * 20% = 4.2' MIN.

EXISTING GRADE AT INTERSECTION OF NE 100TH ST AND 134TH AVE IS 245.00'.
EXISTING GRADE AT SITES AVERAGE EXISTING GRADE IS 245.00'.

TOM SHORT DUPLEX

No.	DIA/LE (FEET)	SPECIES	TREES WITHIN SITE INTERIOR	HEIGHT FACTOR	REPORTED DIAMETER	TRUNK SHAPE
T-1	10"	Doug Fir	1.0	10'	10"	10"
T-2	20"	Doug Fir	1.0	20'	20"	20"
T-3	16"	Doug Fir	1.0	24'	24"	X
T-4	18"	Doug Fir	1.0	24'	24"	X
TOTAL			28'			54"

NE 100TH ST (10' - 15' ELEV.)
134TH AVE (24' - 25' ELEV.)

PROVIDE LIST FOR TREES AND LANDSCAPING PLAN ON SHEET U
NEW TREES SHALL BE 8-9 FEET TALL
(8IN) AND 2 1/2" CALIPER (DBH)



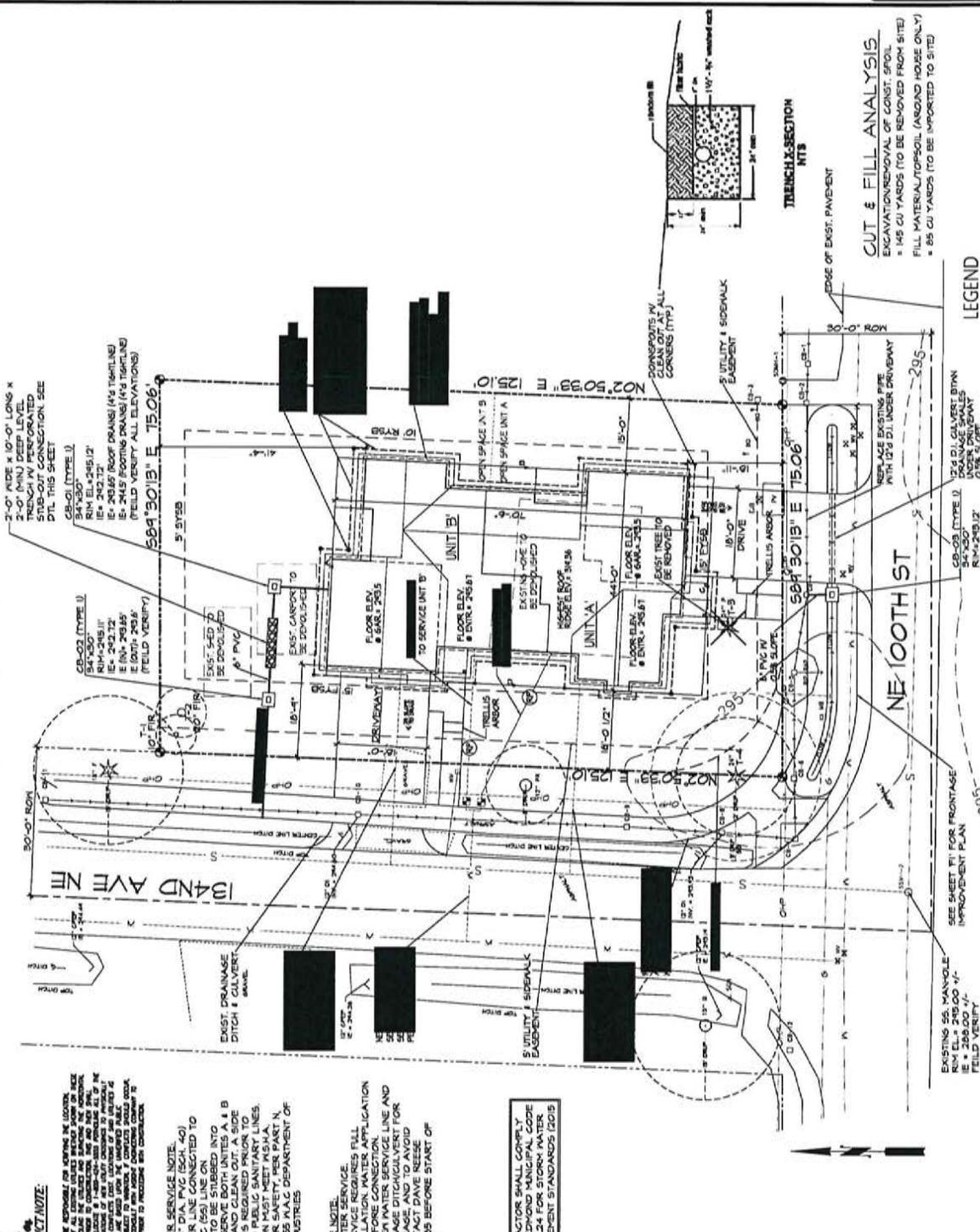
SAZS DESIGN GROUP LLC
 6008 110TH AVE NE
 KIRKLAND, WA 98033
 T: (425) 214-2280
 F: (425) 214-2280

SHORT DUPLEX DRAINAGE CONTROL PLAN

EXHIBIT
 A-A
 A-A
 A-A
 A-A
 A-A
 A-A

19
 1"=30'-0"

QUARTER: SW- SECTION: 34- TOWNSHIP: 26- RANGE: 5
 SW 1/4 OF SECTION 34, TOWNSHIP 26, RANGE 5 KING COUNTY WA



CUT & FILL ANALYSIS
 EXCAVATION/REMOVAL OF CONST. SOIL
 = 145 CU YARDS (TO BE REMOVED FROM SITE)
 FILL MATERIAL/TOPSOIL (AROUND HOUSE ONLY)
 = 85 CU YARDS (TO BE IMPORTED TO SITE)

LEGEND
 PROPERTY LINE
 CONTOUR LINE
 VEGETATED BUFFER LIMIT
 SETBACK



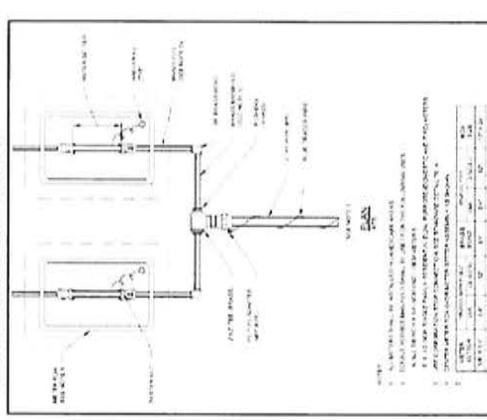
CAUTION: CALL BEFORE YOU DIG
 Utility Conflict Note:
 Call before you dig.

- CONTRACTOR'S RESPONSIBILITIES:**
1. CATCH BASIN SHALL BE CONSTRUCTED IN ACCORDANCE WITH COUNTY SURFACE WATER MANAGEMENT REQUIREMENTS.
 2. PRELIMINARY DESIGN SHALL BE APPROVED BY THE COUNTY ENGINEER AND SHALL HAVE A SEAL, SIGNATURE AND DATE.
 3. ALL MATERIALS SHALL BE FULLY COMPACTED.
 4. THE WALL FROM THE FINISHED GRADE TO THE PIPE INLET SHALL BE CONSTRUCTED WITH STAINLESS STEEL OR ALUMINUM.
 5. CATCH BASIN FRAME AND GRATE SHALL BE IN ACCORDANCE WITH REQUIREMENTS OF THE WASHINGTON STATE DEPARTMENT OF TRANSPORTATION AND SHALL BE FULLY COMPACTED.
 6. EDGE OF CURB OR BRICK SHALL NOT BE MORE THAN 2" FROM VERTICAL EDGE OF THE CATCH BASIN WALL.
- THE LOCATION NOTE:**
1. CATCH BASIN SHALL BE CONSTRUCTED IN ACCORDANCE WITH COUNTY SURFACE WATER MANAGEMENT REQUIREMENTS.
 2. PRELIMINARY DESIGN SHALL BE APPROVED BY THE COUNTY ENGINEER AND SHALL HAVE A SEAL, SIGNATURE AND DATE.
 3. ALL MATERIALS SHALL BE FULLY COMPACTED.
 4. THE WALL FROM THE FINISHED GRADE TO THE PIPE INLET SHALL BE CONSTRUCTED WITH STAINLESS STEEL OR ALUMINUM.
 5. CATCH BASIN FRAME AND GRATE SHALL BE IN ACCORDANCE WITH REQUIREMENTS OF THE WASHINGTON STATE DEPARTMENT OF TRANSPORTATION AND SHALL BE FULLY COMPACTED.
 6. EDGE OF CURB OR BRICK SHALL NOT BE MORE THAN 2" FROM VERTICAL EDGE OF THE CATCH BASIN WALL.

CONTRACTOR SHALL COMPLY WITH REDWOOD MUNICIPAL CODE CHAPTER 15.04 FOR STORM WATER MANAGEMENT STANDARDS (SDMS)

WATER SERVICE NOTE:
 NEW WATER SERVICE REQUIRES FULL SERVICE INSTALLATION. WATER APPLICATION SHALL BE SUBMITTED TO THE WATER DEPARTMENT TO COORDINATE NEW WATER SERVICE LINE AND EXISTING DRAINAGE DITCH/CULVERT FOR PROPER COVERAGE AND TO AVOID INTERFERENCE WITH EXISTING UTILITIES. THE EXCAVATION MUST MEET ASHRAE CHAPTER 24-155 M.A.C. DEPARTMENT OF LABOR AND INDUSTRIES.

SEWER SERVICE NOTE:
 PROVIDE NEW 8" DIA. PVC (SCH. 40) SANITARY SEWER LINE CONNECTED TO EXISTING 8" PVC (SCH. 40) LINE ON PROPERTY TO SERVE BOTH UNITS A & B. PROVIDE TEES AND CLEAN OUT A SIDE SEWER PERMIT IS REQUIRED PRIOR TO THE EXCAVATION. ALL SEWER LINES SHALL BE CONSTRUCTED TO MEET ASHRAE CHAPTER 24-155 M.A.C. DEPARTMENT OF LABOR AND INDUSTRIES.



NO.	DESCRIPTION	DATE
1	ISSUED FOR PERMIT	10/15/2024
2	REVISED PER COMMENTS	10/20/2024
3	REVISED PER COMMENTS	10/25/2024
4	REVISED PER COMMENTS	11/01/2024
5	REVISED PER COMMENTS	11/05/2024
6	REVISED PER COMMENTS	11/10/2024
7	REVISED PER COMMENTS	11/15/2024
8	REVISED PER COMMENTS	11/20/2024
9	REVISED PER COMMENTS	11/25/2024
10	REVISED PER COMMENTS	12/01/2024

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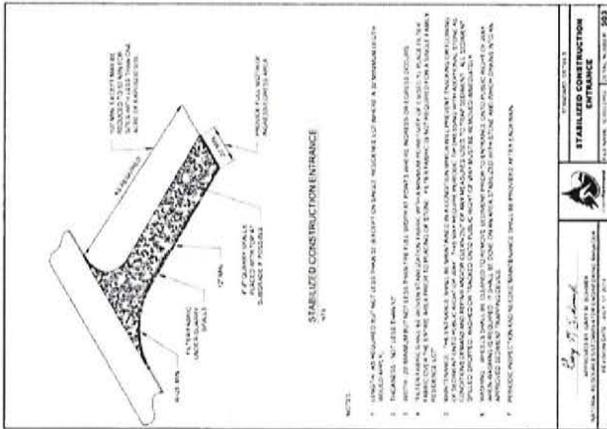
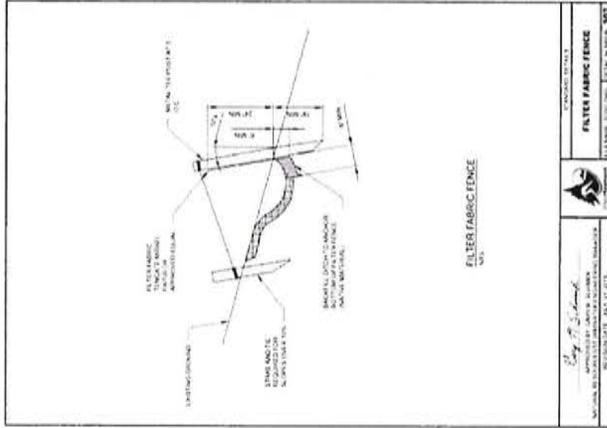


SAZES DESIGN GROUP LLC
 6608 110TH AVE N.E.
 REDLAND WA 98073
 T: (425) 214-2200
 F: (425) 880-2882

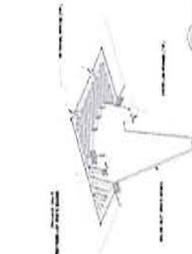
TEMPORARY EROSION & SEDIMENTATION CONTROL PLAN
SHORT DUPLEX

EXHIBIT

DATE: 01/11/2017
 PROJECT: 17-00000000000000000000
 SHEET NO: 001
 TOTAL SHEETS: 002



1. STABILIZED CONSTRUCTION ENTRANCE SHALL BE INSTALLED AS SHOWN.
2. STABILIZED CONSTRUCTION ENTRANCE SHALL BE 18\"/>



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