

This meeting will accommodate virtual and in-person attendance. Those desiring to participate virtually are encouraged to join the meeting via Zoom using the information provided. This meeting will be broadcast live on CityView Channel 192 and the City's website and on the City's YouTube Channel.



Agenda
Planning Commission Meeting
Wednesday, April 27, 2022
Richland City Hall ~ 625 Swift Boulevard
Join the Zoom meeting [here](#)
Public Telephone Access: (206) 337-9723 or (253) 215-8782
Meeting ID No. 939 0409 3882

Commission Members: Chair Maier, Vice-Chair Mealer and Members Eadie, Nicholson, Richardson, Smith and Townsend

Liaisons: Council Liaison: Mayor Alvarez
Council Liaison Alternate: Jones
Staff Liaison: Stevens

Regular Meeting - 6:00 p.m.

Welcome and Roll Call

Approval of Agenda: (Approved by Motion)

Approval of Minutes: (Approved by Motion)

March 23, 2022 Meeting Minutes

Public Comments: Please limit public comments to 2 minutes. The public comment period is not an opportunity for dialogue with the Planning Commission, or for posing questions with the expectation of an immediate answer. Many questions require an opportunity for information-gathering and deliberation. For this reason, the Planning Commission will accept comments, but will not directly respond to comments, questions or concerns during public comment. Records intended for the Planning Commission's consideration must be submitted to the Planning Manager by 4:00 p.m. the day of the meeting for distribution.

Public Hearing : Please limit public hearing comments to 3 minutes. Comments must speak only to the item for which the hearing is convened. Records intended for the Planning Commission's consideration must be submitted to the Planning Manager by 4:00 p.m. the day of the meeting for distribution.

Public Hearing Explanation:

Unfinished Business - Public Hearing:

- I. CA2021-108 Badger Mountain South LUDR Amendments (continued)
- Mike Stevens, Planning Manager

New Business - Public Hearing:

- I. Proposed Surplus - Property Encroachment at Claybell Park

- Joe Schiessl, Parks & Public Facilities Director

Communications:

Adjournment

The next Planning Commission Workshop is May 11, 2022

The next Planning Commission Meeting is May 25, 2022

Richland City Hall is ADA accessible. Requests for sign interpreters, audio equipment, and/or other special services must be received 48 hours prior to the meeting by calling the City Clerk's Office at 509-942-7389.



PLANNING COMMISSION AGENDA ITEM COVERSHEET

Meeting Date: 4/27/2022

Agenda Category: Approval of Minutes

Prepared By: Mike Stevens, Planning Manager

Subject:

March 23, 2022 Meeting Minutes

Request:

Core Focus Area I - Promote Financial Stability & Operational Effectiveness

Recommended Motion:

Approve the minutes of the Planning Commission meeting held on March 23, 2022.

Summary:

Meeting Minutes

Attachments:

1. 2022.03.23 Planning Commission Meeting Minutes DRAFT



**MINUTES
PLANNING COMMISSION MEETING
WEDNESDAY, MARCH 23, 2022
VIA ZOOM MEETINGS AND IN PERSON
City Hall – 625 Swift Boulevard – Council Chamber
6:00 p.m.**

Call to Order:

Chairperson Maier called the meeting to order at 6:00 p.m. and welcomed attendees.

Attendance:

Present: Chairperson Maier, Vice-Chair Mealer, Commissioners Eadie, Townsend, Palmer and Smith. Also present: Councilperson Richardson, Development Services Director Jensen, Planning Manager Stevens, Public Works Director Rogalsky, Planner Arrasmith, Economic Development Specialist Follett, and Staff Liaison Assistant Damrell.

Approval of Agenda:

Chairperson Maier presented the meeting agenda for approval and asked for a motion to approve.

COMMISSIONER PALMER MOVED AND VICE-CHAIR MEALER SECONDED THE MOTION TO APPROVE THE MARCH 23, 2022 MEETING AGENDA AS WRITTEN. MOTION CARRIED 6-0.

Approval of Minutes:

Chairperson Maier presented the minutes from the February 23, 2022 meeting for approval.

VICE CHAIR MEALER MOTIONED AND COMMISSIONER PALMER SECONDED THE MOTION TO APPROVE THE MINUTES OF THE FEBRUARY 23, 2022 MEETING AS WRITTEN. THE MOTION PASSED 6-0.

Public Comments:

Chairperson Maier opened the public comment period at 6:03 p.m.

Having no comments, Chairperson Maier closed the public comments at 6:04 p.m.

New Business – Public Hearing:

1. Proposed Surplus of City-Owned Property Located West of George Washington Way

Chairperson Maier opened the public hearing at 6:05 p.m. and recognized Public Works Director Rogalsky. Mr. Rogalsky presented a proposal to transfer the property to Washington State University. Mr. Rogalsky concluded his presentation at 6:13 p.m. **AT 6:16 P.M. VICE CHAIR MEALER MOVED AND COMMISSIONER EADIE SECONDED THE MOTION TO RECOMMEND THE TRANSFER. MOTION PASSED 6-0 at 6:17 P.M.**

2. Proposed Surplus of City-Owned Property Located along Thayer Drive south of the Duportail Street Roundabout

Chairperson Maier recognized Planner Arrasmith. Mr. Arrasmith presented a proposal to surplus the property as the City of Richland will have trouble developing it. Mr. Arrasmith concluded his presentation at 6:19 p.m. **AT 6:22 P.M. VICE CHAIR MEALER MOVED AND COMMISSIONER PALMER SECONDED THE MOTION TO RECOMMEND THE SURPLUS. MOTION PASSED 6-0 AT 6:23 P.M.**

Unfinished Business – Public Hearing

1. CA2021-108, Badger Mountain South Land Use Development Regulations (LUDR) Amendments – Continued from March 23, 2022

Chairperson Maier opened the public hearing at 6:23 p.m. and recognized Planning Manager Stevens. Mr. Stevens gave an overview of the purpose for the public hearing and that sections 3 through 5 of the LUDR would be covered. Nicole Stickney, representing AHBL, 5908 Rd 90, Ste H, Pasco reviewed the proposed changes in each section. At the conclusion of the review for each section, the Commission discussed specific proposed amendments and accepted public comments regarding proposed changes. The following comments and testimony were received:

Heather Nicholson, 4717 Barbera St., Richland, shared additional amendments requested by the homeowners in Badger Mountain South, including following the “3 block rule” for park placement, as well as trash cans and dog waste stations.

Bennette Sanner, 4573 Ruth Ct., Richland, relayed her concerns about contamination of the water table, and about the area growing too fast. She also wanted to make sure residents would be able to attend meetings, to which Planning Manager Stevens advised the different ways to attend meetings.

Darin Sweeney, 2836 Troon Ct., Richland, suggested meeting with Planning Manager Stevens at another time to discuss shed size.

Heather Nicholson, 4717 Barbera St., Richland, discussed the lack of parks and open space that residents were promised. She then went through the rest of the document that she had provided before the meeting.

Planning Manager Stevens suggested to make revisions on sections 1 through 5 of the LUDR.

Melissa Kasper, 2596 Rinas Rd., Richland, recognized Heather Nicholson as a good representative for the residents of Badger Mountain South.

Katie Storey, 4572 Ruth Ct., Richland, also recognized Heather Nicholson and appreciates her.

Chelsea Klicker, 4435 Highview St., Richland, advised that she created a petition on Change.org. She also mentioned that she appreciates the Commission and developers.

Teresa Reents, 2853 Sunshine Ridge Rd., Richland, indicates that she owns Tract C in Badger Mountain South and wanted clarification of how much open space acreage Heather Nicholson thought they were losing. Ms. Nicholson responded that she was mistaken, but now understands after the comments at this meeting.

AT 8:12 VICE-CHAIR MEALER MOVED AND COMMISSIONER EADIE SECONDED THE MOTION TO CONTINUE THE PUBLIC HEARING TO THE NEXT REGULAR SCHEDULED PLANNING COMMISSION MEETING ON APRIL 27, 2022. MOTION PASSED 6-0

Communications:

Mr. Stevens provided an outline of upcoming meetings. He stated that subsequent meetings would review specific sections of the LUDR.

Chairperson Maier recognized that this would be Commissioner Palmer's last meeting and thanked him for his service on the Commission. Commissioner Palmer encouraged the public to get involved.

Commissioner Smith appreciated being able to meet in person again and appreciated the open dialogue between everyone involved.

Adjournment:

Chairperson Maier adjourned the meeting at 8:14 p.m.

PREPARED BY: _____
Kevin Damrell, Permit Technician

REVIEWED BY: _____
Mike Stevens, Planning Manager

APPROVED BY: _____
Francesca Maier, Chairperson

DRAFT



PLANNING COMMISSION AGENDA ITEM COVERSHEET

Meeting Date: 4/27/2022

Agenda Category: Unfinished Business - Public Hearing

Prepared By: Mike Stevens, Planning Manager

Subject:

CA2021-108 Badger Mountain South LUDR Amendments (continued)

Request:

Core Focus Area 3 - Increase Economic Vitality

Recommended Motion:

n/a

Summary:

Continued discussion of the updates to the Land Use & Development Regulations (LUDR). Due to unforeseen reasons, staff suggests that discussion of Section 6, Transportation, gets delayed until the applicant is able to provide updated materials that reflect current discussions they have had with the City's Public Works Department. As a result, staff recommends that the focus of the April 27, 2022 meeting be Sections 7, 8 & 9.

Attachments:



PARKS AND RECREATION COMMISSION WORKSHOP AGENDA ITEM COVERSHEET

Meeting Date: 4/27/2022

Agenda Category: New Business - Public Hearing

Prepared By: Joe Schiessl, Parks & Public Facilities Director

Subject:

Proposed Surplus - Property Encroachment at Claybell Park

Department:

Parks & Public Facilities

Recommended Motion:

I move that the Richland Planning Commission recommend that the Richland City Council declare the subject property surplus and give special consideration of selling the land to the abutting landowner.

Summary:

The City acquired property adjacent to Claybell Park on April 8, 1980 known as Tract C of Willobwrook No. 1. The property at 341 Gleneagles Court, abutting Tract C, encroaches (1,348 square feet) upon the City's property and the owner is requesting to purchase the land. The encroachment is presumed to pre-exist the City's acquisition of Tract C on April 8, 1980 as the building permit for 341 Gleneagles Court was issued on September 1, 1976 and there are no records of known encroachment.

The Parks and Recreation Commission considered this item on January 13 and January 27, 2022 consistent with RMC 3.06 and recommend that Council sell the encroachment area as requested by 341 Gleneagles Court. Per the Richland Municipal Code the Parks and Recreation Commission, Physical Planning Commission and Economic Development Committee must each provide a recommendation to the Richland City Council for final decision.

The process includes two steps. First, should the property be surplussed? Items C 1-4 in 3.06.010 (attached) must be satisfied for an affirmation of the first question. Second, if the answer to the first question is yes, and the property is declared surplus by the City Council, how will it be sold, leased or otherwise transferred? Items A-B in 3.06.040 must be evaluated to determine the desired process. The choices are a direct negotiation with one party or a public sale or auction available to any buyer. In this case, item 3.06.040 A (direct negotiation) would apply because the adjacent owner has requested to purchase the property, the encroachment does not meet the minimum lot size of the zoning district and could not constitute a legal property, and there is no access to the encroachment site.

Fiscal Impact:

If the property is declared surplus it will be sold for market value and the proceeds would be deposited into the Park Reserve Fund.

Attachments:

1. 341 Gleneagles Ct - Encroaching Land Purchase Request
2. RMC 3.06 - Surplus Property
3. Letter from Tapteal Greenway Association

July 30, 2021

Joe Schiessl
City of Richland
Parks and Public Facilities
625 Swift Blvd
Richland, WA 99352

RE: 341 Gleneagles Court - Encroaching Land Purchase Request

Dear Mr. Schiessl:

My name is John Corbin and I own a residence 341 Gleneagles Court in Richland, where my family has lived since 1978. The Benton County Parcel Number is 13698302000200 and the legal description of the property is known as Lot 8, Block 2, Meadow Springs Second Nine Phase, according to the plat thereof recorded in volume 9 of plats, page 6, records of Benton County, Washington.

The backyard of my property presently encroaches upon City property, more specifically known as Benton County Parcel Number 136983050009001, part of Claybell Park and is graphically depicted below from the Benton County Assessor's webpage. You can see the encroachment area clearly from here and this portion of City property is undeveloped.

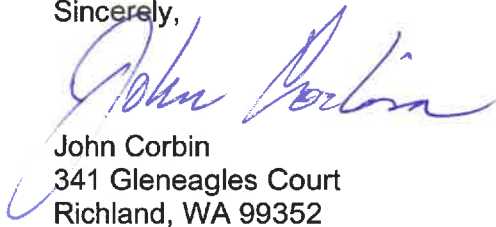


I engaged the design services of Knutzen Engineering to make a small addition to my house and backyard. I've since learned that I can't continue to move forward with my project, due to the required setbacks, which I mistakenly thought were fine due to measuring the distance from my wall which I thought was my property line as opposed to my actual legal property line. We then engaged John Becker, PLS (AHBL) to perform a Record of Survey that graphically depicts the extent of the present encroachment (attached).

To allow me to continue my project of improving my backyard, **I hereby request that the City consider selling me this encroached upon portion of property**, which would give me adequate legal setbacks to keep moving my home improvement project forward. I understand this is a process, that the land would need to be declared surplus and public hearing(s), but I am happy to wait to for the due process of this effort to come to fruition.

Thank you in advance for your assistance in resolving this issue. If you need an exact legal description prepared for the portion I am requesting to purchase I can have my surveyor provide that. My engineer tells me that it's approximately 1,348 sf in total.

Sincerely,



John Corbin
341 Gleneagles Court
Richland, WA 99352

Attachment: AHBL Survey

RECORD OF SURVEY
A PORTION OF THE EAST 1/2 OF THE SW 1/4 OF SECTION 36, TOWNSHIP 9 NORTH, RANGE 28 EAST, W.M.,
BENTON COUNTY, WASHINGTON.

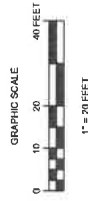
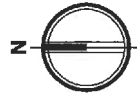
SECTION INDEX
S 36, T 09 N, R 28 E, W4 BENTON COUNTY, WA

LEGAL DESCRIPTION

PER DEED OF TRUST APR 2002-036801
MEADOW SPRINGS SECOND NINE PHASE ONE, BLOCK #2, LOT #1
OF MEADOW SPRINGS SECOND NINE PHASE ONE, BLOCK #2, LOT #1
TO THE PLAT THEREOF RECORDED IN VOLUME 9 OF PLATS, PAGE 6,
RECORDS OF BENTON COUNTY, WASHINGTON

BASIS OF BEARING

HELD A BEARING OF SOUTH 00° 35' 46" WEST FOR THE CENTER LINE OF
GLENEAGLES COURT PER THE PLAT OF MEADOW SPRINGS SECOND NINE
PHASE ONE, BLOCK #2, LOT #1, RECORDED IN VOLUME 9 OF PLATS, PAGE 6,
RECORDS OF BENTON COUNTY, WASHINGTON



LEGEND

- FOUND MONUMENT AS NOTED
- WATER METER
- FOUND PROPERTY CORNER
- DECIDUOUS TREE AS NOTED
- FENCE

BROADMOOR STREET

GLENEAGLES COURT

MEADOW SPRINGS
SECOND NINE
PHASE ONE,
BLOCK #2

PARCEL 136983020002008
341 GLENEAGLES COURT
RICHLAND, WA 99352

CITY OF RICHLAND

AUDITOR'S CERTIFICATE

FILED FOR RECORD THIS _____ DAY OF _____
20____ AT _____ MINUTES PAST _____ M. RECORDS OF
THE _____ COUNTY AUDITOR, _____ WASHINGTON.
RECORDING NUMBER _____
COUNTY AUDITOR _____
FEE _____
BY _____

SURVEY FOR

C. JOHN CORBIN
341 GLENEAGLES COURT
RICHLAND, WA, 99352

EQUIPMENT USED

3" TOTAL STATION USING STANDARD FIELD
TRAVERSE METHODS FOR CONTROL AND STAKING.

SURVEYOR'S CERTIFICATE

I, JOHN W. BECKER, A PROFESSIONAL LAND SURVEYOR IN THE
STATE OF WASHINGTON, HEREBY CERTIFY THAT THIS MAP
CORRECTLY REPRESENTS A SURVEY MADE BY ME OR UNDER MY
SUPERVISION AND IN ACCORDANCE WITH THE REQUIREMENTS OF
R.C.W. AND 332-130 W.A.C. AT THE REQUEST OF C. JOHN CORBIN.

JOHN W. BECKER, P.L.S. 30480

DATE



6604 Road 90, Suite H Puyallup, WA 99301
509.380.5863 TEL 253.333.2572 FAX www.ahbl.com WEB

DWN. BY	DATE
SW	06/25/21
CHKD. BY	JOB NO.
JB	2210436

Chapter 3.06

SALE OR LEASE OF CITY REAL PROPERTY

Sections:

[3.06.010 Purpose – Policy – Objectives.](#)

[3.06.020 Authority.](#)

[3.06.030 Declaration of surplus.](#)

[3.06.040 Sale or lease procedures.](#)

[3.06.050 Conveyance procedures.](#)

[3.06.060 Exceptions.](#)

3.06.010 Purpose – Policy – Objectives.

A. Purpose. The purpose of this chapter is to establish policies and procedures regarding the surplusage and the sale or lease of certain real property owned or otherwise controlled by the city.

B. Policy. It shall be the policy of the city to consider sale or lease of real property owned or controlled by the city when such property is determined to be surplus to the needs of the city, and where it is demonstrated to the satisfaction of the city council that sale or lease will best serve the public interest. For purposes of this chapter, the public interest will best be served when a transaction accomplishes one or more of the objectives listed in subsection (C) of this section.

C. Objectives. The purpose and policies of this chapter are intended to accomplish the following basic objectives, which should be achieved in a balanced manner to ensure that none are over-emphasized to the detriment of the others:

1. Stimulate the development of the city's economic base to provide employment opportunities and tax revenues for the city and other local taxing entities;
2. Meet the financial obligations resulting from prior property transactions of the city;
3. Provide capital for economic development purposes, for parkland operations (planning, acquisition, design, construction and maintenance and operation), and such other purposes as the council determines are necessary and appropriate; and
4. Provide a source of general revenue to the city over and above the tax yields from such real property. [Ord. 24-84].

3.06.020 Authority.

Whenever it is determined by the city council that it is in the best interest of the city that real property owned by the city should be sold or leased, the council may authorize the sale or lease and conveyance of such real property, upon any terms and conditions which it deems appropriate. In taking such action, the council may reserve, sell or lease mineral or other resources on any such real property separate and apart from the land in the same manner and upon the same terms and conditions as provided for in this chapter. [Ord. 24-84].

3.06.030 Declaration of surplus.

Prior to the sale or lease of any city-owned real property, the city council shall determine that the property is excess to the present and future municipal needs of the city.

A. In making such a determination, the council shall utilize the following criteria:

1. Conformance with the city's comprehensive plan as provided in RMC Title [23](#);
2. Recommendations from the economic development board and the physical planning commission, and, as deemed appropriate and requested by the council, recommendations from other city boards and commissions such as the utility advisory board and the parks and recreation commission;
3. Input from the public at a duly advertised public hearing;
4. Recommendations within the 1973 report prepared for the council by the land sale/lease policy committee entitled, "Proposed Policy for the Sale or Lease of Excess City Owned Property," and adopted as a guideline by council by resolution (No. 64-84); and
5. Other forms of input determined appropriate or desirable by the council.

B. If the council determines the property to be no longer necessary for present and future municipal use, it may declare by resolution the property to be surplus. Upon making such declaration of surplus, the council may also make the following determinations:

1. Whether the parcel should be sold or leased;
2. Whether special consideration should be given to abutting land owners;
3. Whether special covenants or restrictions should be placed on the real property as a condition of sale or lease;
4. Whether the parcel should be sold or leased by sealed bid;
5. What formality of appraisal is necessary to set the minimum acceptable price to achieve reasonable value.

C. Upon declaration of surplus by the council, the city manager or designee shall undertake disposal of the parcel(s) in accordance with the council's directives. [Ord. 24-84].

3.06.040 Sale or lease procedures.

Sale or lease procedures may be initiated following one of two events: a determination by the city council that economic indicators favor sale or lease or upon specific request by a firm or individual to lease or purchase city property. In determining which process to utilize, the council shall give consideration to the findings and recommendation of the economic development board.

A. Sealed Bid Process. If the council requires the real property to be sold or leased upon competitive bids, the following procedures shall be utilized:

1. The city clerk shall give notice that the city will invite bids for purchase or lease of the property by one publication in the official newspaper of the city, posting in a conspicuous place in the City Hall and on the subject real property, and/or such other notification or advertising determined to be appropriate. The publication and posting shall be at least 10 calendar days before the final date for submitting bids;

2. Publication and posting for bids shall particularly describe the property or portion thereof proposed to be sold or leased, shall designate the place and the time of the bids to be opened, and shall set forth any terms and minimum price, if any, established by the council;

3. Bids shall be opened in public at the time and place stated; and

4. The council may reject any and all bids, or the bid for any one or more of the parcels included in the advertisement for bids, and reserves the right to waive any irregularities in the bid process.

B. Negotiation Process. The council may determine that property should be sold or leased through negotiations, either as a result of a specific request, or as a result of city-initiated advertising or other solicitation. In either event, sale or lease consideration shall proceed as follows:

1. All requests shall be directed to the city manager or his designee;

2. The city manager or his designee shall schedule the request for review and consideration by the economic development board, along with a report discussing the following:

- a. Status of the surplus property;

- b. Whether the property should be considered for public bid offerings;

- c. Whether, and for what reason(s), sale or lease would be advantageous to the city; and

- d. Any other special considerations which apply to and which will aid the board in considering the request;

3. The economic development board shall review the request and make findings, based on the policy and objectives and the criteria provided in this chapter, for the council's consideration;

4. The council shall act on the request, with due consideration to the findings and recommendation of the economic development board and, as appropriate, other boards, commissions, or individuals. [Ord. 24-84].

3.06.050 Conveyance procedures.

Upon receipt of an acceptable bid or negotiated offer for sale or lease of city real property, the city manager or his designee shall submit a report and recommendation to the city council for action. The council shall proceed as follows:

A. The council may solicit additional information it deems necessary and appropriate, including input from the public at a duly advertised public hearing, prior to taking action to accept or reject any sale or lease offer.

B. Upon determination of an acceptable bid or offer, the council shall authorize the city manager to cause the necessary instruments to be prepared and executed.

C. Copies of such instruments shall be filed with the Benton County assessor's office by the city clerk.

D. The title to any sold city real property shall not be transferred until the purchase price therefor has been fully paid and any applicable terms or conditions have been fully satisfied.

E. The net receipts from sold city real property, not designated for other purposes, shall be deposited into the capital improvement fund. [Ord. 24-84; Ord. 41-93].

3.06.060 Exceptions.

This chapter shall not apply to the following dispositions of real property:

A. When selling to another governmental agency, in which event the transfer is approved by the court as provided by law; and

B. When provisions of the RCW impose conditions for the disposition of municipal property, those laws shall be treated as limited exceptions to this chapter. Exceptions include, but are not limited to, the following as they may from time to time be amended:

1. RCW [35.21.660](#) through [35.21.680](#) and [35.31.725](#) through [35.31.755](#) relating to transfers to corporations charter by the city;

2. Chapter [35.94](#) RCW relating to surplus utility property; and

3. Chapters [39.33](#) and [39.34](#) RCW relating to intergovernmental transactions.

C. Sale of properties that have been acquired by the city by means of foreclosures of real estate sales contracts or for nonpayment of LID or other assessments and whether by deed in lieu of foreclosure or by judgment of foreclosure and attendant sheriff's deed. [Ord. 24-84].



10 February 2022

Joe Schiessl
Parks & Facilities Director
City of Richland
625 Swift Boulevard
Richland WA 99352

Re: Claybell Park Encroachment

Dear Joe:

The Tapteal Greenway board has considered the request by the homeowner at 341 Gleneagles Court to purchase land he believed was his, but is, in fact, an encroachment into Claybell Park. The homeowner requests the purchase in order to provide an adequate setback in order to undertake an improvement to his property.

The parcel being encroached upon was originally known as Tract C of Willowbrook No. 1 and was transferred to the City from The Quadrant Corporation on 8 April 1980. The adjacent home was built in 1976 and the current resident purchased the property in 1978. It has been claimed that the current fence line was established prior to the City taking ownership of the adjacent parcel in 1980.

Accepting the statement that the encroaching fence existed at the time the City took ownership of the adjacent parcel, City staff take the position that the encroachment was existing and knowable to the City and by not identifying and correcting the encroachment in 1980 the City in effect accepted the encroachment. The only party this encroachment was easily knowable to is the property owner. The obvious clue is that the two corners of the fence extend further south than the neighboring fences. The City side of the property is heavily vegetated and this fence line is not easily observed.

The homeowner has no legal claim to the property by adverse possession as adverse possession claims against municipalities are banned by RCW 7.28.090. Whether he, or the City, knew he was encroaching or not is irrelevant since legally the land in question is city land and has been since it was acquired in 1980. There is no statute of limitations to RCW 7.28.090. Just because Richland did not monitor the encroachment area does not allow the homeowner to assert any claim to it. When it is said that the land was acquired "as is", the "as is" does not legitimize the encroachment. "As is" simply means the City acquired a fence and a strip of lawn.

In reference to RCW 7.28.090 and as discussed by Oskar Rey of The Municipal Research and Services Center, which is a nonprofit organization that helps local governments across Washington State better serve their communities by providing legal and policy guidance:

"As the court observed, the government holds land for the benefit of the public. Immunizing certain public property from adverse possession claims prevents injury to the public in cases where the government cannot or does not monitor land for trespasses or encroachments."

No documentation has been submitted showing the City approved the location of the encroaching fence. It is hard to believe that a wooden fence constructed before 1980 would be replaced for the first time in 2021. Until recently a no fee permit was required by the City for fence construction. It is interesting to note that the attached site plan submitted in 2002 shows the correct property boundaries and indicates an existing fence on the west side of the property but neglects to show the encroaching fence along the south boundary.

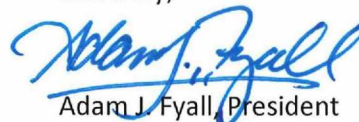
The Tapteal Greenway Board of Directors believes it is inappropriate to sell park land, especially in a case like this, as there is no clear benefit of the proposed sale to the public. This would create a detrimental precedent. Property lines are known or knowable and private encroachment, accidental or not, results in a loss of land held for the benefit of the public and wildlife. Encroachments and other forms of private misuse of public resources are not uncommon and we encourage the City to protect property lines and public property.

At this time we do not oppose a variance that would allow the homeowner to complete his project as long as the issuing of the variance and the improvement project meet City requirements and as long as the improvement does not adversely impact or fall on City land. We understand the improvement is a swimming pool and we would consider, as one example, draining of pool water into the adjacent wetland and ultimately to Amon Creek to be an unacceptable negative impact. To help prevent impacts to City land, we request that the fence be moved back to the true property line.

If however, the City elects to sell the property, we request that the sale proceeds be earmarked for trail or habitat improvements within the adjacent Amon Creek Natural Preserve.

Thank you for the opportunity to comment.

Sincerely,



Adam J. Fyall, President
Tapteal Greenway

att: site plan

SETBACKS	
RIM	
F - 20'	
R - 25'	
S - 10'	

Addition only

CITY OF RICHLAND
PLANNING &
ZONING CODES
APPROVED
BY *Mr R Hu*
DATE *2-Dec-02*

Revised

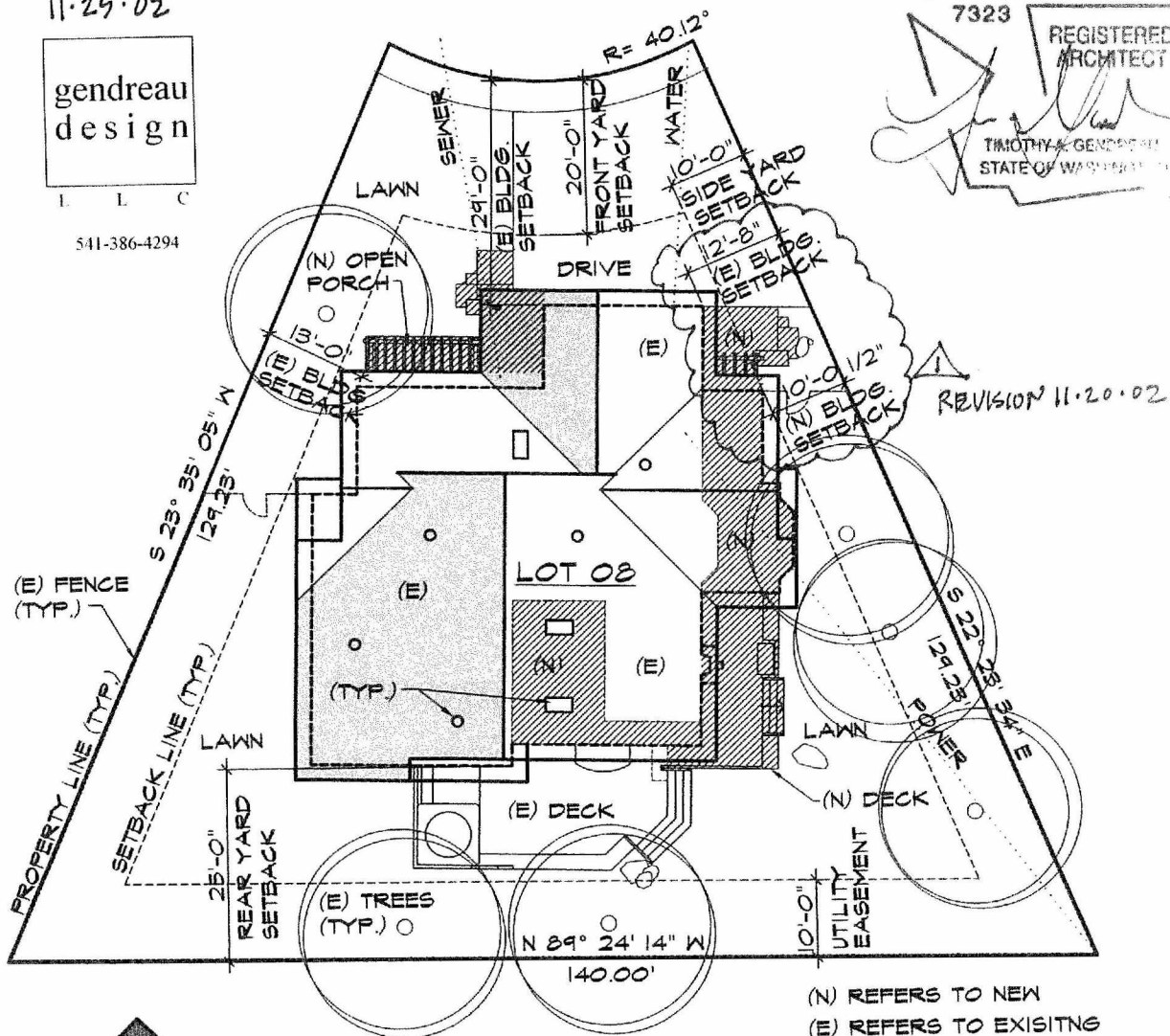
11.25.02

gendreau
design

I L C

541-386-4294

7323
REGISTERED
ARCHITECT
Timothy A. Gendreau
TIMOTHY A. GENDREAU
STATE OF WASHINGTON



SITE PLAN
SCALE: 1" = 20'-0"

341 Gleneagles Ct
Lot 8 Blk 2
Meadow Springs
2nd Nine phase 1