

WHATCOM COUNTY
Planning & Development Services
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David Stalheim
Director

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October 29, 2008

Core Design, Inc.
14711 – NE 29th Place, Suite 101
Bellevue, WA 98007

Re: Outstanding issues associated with case # ENF2006-00195.
Also related to LSS2007-00005 for the proposed Pt. Roberts Beach Resort.

To Whom It May Concern,

This letter addresses outstanding issues associated with an active code enforcement case (ENF2006-00195) with the Whatcom County Planning and Development Services (PDS) department. Since these issues must be resolved prior to preliminary approval of your long plat application (LSS2007-00005), it is imperative that you address them in a timely manner.

On April 9, 2007 at a pre-application meeting (PRE2006-00084), Code Enforcement staff delivered an Order to Correct to one of your representatives. A copy of the Order is attached to this document. The Order represented an administrative determination that there were development actions on the subject property that were in violation of the Shoreline Management Program (SMP) and Critical Areas Ordinance (CAO). Specifically, PDS staff had documented the following unpermitted activities:

1. Construction of a stairway for beach access.
2. Tree cutting and vegetation removal within CAO buffers and SMP jurisdiction.
3. Replacement of agricultural drainage system within regulated wetlands and/or buffers.
4. Unmitigated discharge of water off bluff face via a flexible drainpipe.

The Order directed the property owner to submit a land disturbance application for activities outside of SMP jurisdiction and a Shoreline Statement of Exemption to repair the stairway and drainage system within SMP jurisdiction. As a result, the prospective buyer of the property submitted a land disturbance application (LDP2007-00105) and a Shoreline Statement of Exemption (SHX2007-00046) in May 2007. At that time, Staff clarified that no clearing within SMP jurisdiction was being permitted.

Unfortunately, the LDP application has expired because the applicant never responded to a request by PDS staff for a complete application. Also, the SHX application is on hold, requiring additional information. As a result, the property remains out of compliance with the Whatcom County Code, requiring corrective measures.

The corrective measures (below) must be completed within the timelines established in the Notice

of Additional Information (NOAI) for your long plat application. Please note, however, that if you abandon your pursuit of the long plat, then the landowner will still be required to address any outstanding issues.

The aforementioned corrective measures follow:

1. **Stairway** – You may propose and pursue a location for a stairway in association with the long plat. However, if your application is not completed, then you shall carry out one of the following options:
 - a) Submit additional information required to support the existence of a stairway prior to the SMP in the same location and configuration as the existing stairway. If the information is sufficient, then you shall pursue a Shoreline Statement of Exemption for the work already completed. This will also require design and/or evaluation by a geotechnical engineer due to the slope instability of the area.
 - b) If the information proves insufficient, then you shall obtain a demolition permit and remove the stairway. You may then pursue application for a new stairway supported by an analysis conducted by a geotechnical engineer.
2. **Clearing** – You shall retain the services of a qualified consultant to prepare a critical areas assessment report to address the unauthorized clearing within the shoreline buffer. A restoration proposal shall be required to restore the functions and values of the vegetation that was cleared on the bluff.
3. **Drainage** – You may propose and pursue a location for drainage off the property in association with the long plat. However, if your application is not completed, then you shall pursue your Shoreline permit (SHX2007-00046) in good faith, which included the installation of the drainage within Shoreline jurisdiction.

Although your land disturbance application (LDP2007-00105) has expired, you will not be required to submit a new application at this time. However, if you decide not to pursue the long plat and desire to return the property to agricultural use, then you will be required to submit a new land disturbance application and/or receive approval for a farm plan.

4. **Discharge** – You shall extend the flexible drainpipe to the beach and employ an approved dispersion technique at the discharge point. This should be completed as soon as possible and will act as a *temporary* measure to reduce erosion to the bluff. Be advised, though, that this activity may also require permits by the Washington State Department of Fish and Wildlife (WDFW).

In association with your long plat application, you shall pursue a permanent solution. However, if your long plat project is not completed, then the landowner may be required to eliminate the discharge from the slope.

The deadlines for the above measures may only be extended if the consultants/engineers are unable to meet them and contact the Enforcement Office to determine another deadline.

Our office is dedicated to assisting you with development of a resolution-oriented plan. You are encouraged to contact PDS staff for any questions, resources, or possible alternative resolutions. I look forward to working with you to bring the property into compliance.

Sincerely,

Bryan Sehmel
Planner, Code Enforcement
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CC: Stanton Land Holdings, LLC
11410 – NE 122nd Way # 102
Kirkland, WA 98034

Attachments:	<input type="checkbox"/> Appeal Rights/Enforcement Authority	<input checked="" type="checkbox"/> Copy of Order to Correct	
Delivery Method:	<input type="checkbox"/> Posted on Site	<input type="checkbox"/> Hand Delivered	<input checked="" type="checkbox"/> Certified Mail