BEFORE THE CITY COUNCIL
CITY OF ASHLAND, JACKSON COUNTY, OREGON
September 2, 2008

In the Matter of Tentative Decision on a Ballot Measure 49 Claim, pursuant to Section 9 of the Act, requesting the right to permit, without limitation, the creation, division, development, and/or subsequent sale of 10 (two acre) legal lots with a single family dwelling on each lot, located on real property within the city limits of the City of Ashland, Jackson County, Oregon more particularly described as Tax Map/Lot T39SR1E, Section 8DB, Lot 200, a/k/a 766 Strawberry Lane, consisting of approximately 27.25 acres of land.	)	FINDINGS OF FACT CONCLUSIONS OF LAW AND ORDER
Applicant: George Harshman, Virginia Wilt, Wilt Family and Tri-W Group L.P.	)	

I. NATURE OF PROCEEDINGS

This matter comes before the City Council for the City of Ashland for a *tentative decision* on a Ballot Measure 49 claim, under Section 9 and 10 of the Act. The applicants will be advised of the tentative decision and given 15 calendar days to submit evidence and arguments in response to this tentative decision. Thereafter the City shall issue a final determination on or before November 20, 2008.

On November 29, 2006 a Measure 37 claim was submitted by Attorney William Cox on behalf of "George and Patsy Harshman". On February 16, 2007 City Administrator Martha Bennett mailed a letter to Attorney Cox indicating the application was incomplete, including failure to include all owners, (noting the omission of an application from "Tri-W Group" listed as owner of 50% undivided interest of the parcel). Mr. Cox responded on February 29, 2006 by submitting evidence that the City Planning Department signed for receipt of the Tri-W Group application on November 29, 2006. The City received another copy of the Tri-W claim on March 12, 2007 as well as materials to address the completeness of the Harshman claim. On July 5, 2007 City Administrator Martha Bennett sent a letter to Attorney Cox notifying him of the extension of time granted by the Oregon Legislature for consideration of Measure 37 claims; the letter also notified Attorney Cox that the application for Tri-W Group was also incomplete. Oregon Voters enacted Ballot Measure 49 in November 2007, effective December 2007. The Act essentially abolished Measure 37; however, it provided a process for applicants with pending Measure 37 claims to determine if they had rights under Measure 49.

Section 10(2) of the Act provides that if a City has not made a decision on a Measure 37 claim before December 2007, the City must notify the applicant within 90 days after the effective date of Measure 49 that the applicant is entitled to seek relief under Section 9. On February 27, 2008, the City Administrator notified Attorney Cox of the right to apply for relief under Measure 49 within 120 days; the notice complied with the statutory notice requirements and included a c*laim form* developed expressly for the purpose of directing the claimant to submit necessary information for the Section 9 claim. The notice also reserved the right to question the eligibility of the claimants (due to incomplete M37 applications). Attorney Cox filed a claim for "George Harshman, Virginia Wilt, Wilt Family and Tri-W Group" on May 20, 2008. The City *claim form* developed for this single City M49 claim was completed only by stating "see attached" in numerous places referencing the M37 claim materials attached. No qualifying appraisal complying with Section 9, subsection 6 of the Act was submitted with the claim. The Attorney's cover letter indicates "claimants have been unable to retain a certified appraiser …" As discussed more fully below, failure to follow the guidance of the claim form to submit the required information has resulted in fatal errors in the application. Specifically, Section 10 (3) of the Act provides that failure to file the notice *and required information* with the public entity *within 120 days* after the date the public entity mails the notice, essentially disqualifies the claim and the claimant is not entitled to relief under Section 9 of Measure 49.

Pursuant to Section 10(4) of the Act the City has until approximately September 20, 2008 to make a tentative decision. (*Note: A tentative decision is scheduled for September 2, 2008 but can be postponed to September 16, 2008 if necessary.*) The claimants and DLCD will be provided notice of the tentative decision and will have 15 calendar days to submit written evidence or arguments in response to the tentative decision. The City must make a final determination on or before November 20, 2008.

Based upon the evidence in the Record, said Record being specifically incorporated herein by this reference, the Council makes the following findings of fact and conclusions of law:

II. FINDINGS OF FACT

1) The Nature of Proceedings findings set forth above are true and correct and are incorporated herein by this reference.

2) The applicant [claimant] is listed on the application as George Harshman, Virginia Wilt, Wilt Family, and Tri-W Group LP. Claimants are represented by Attorney William C. Cox 0244 S.W. California Street, Portland, Oregon 97219 [phone (503) 246-5499].

3) The subject of this Measure 49 claim is real property located within the City of Ashland ("City"), and described in Jackson County Tax Assessor's maps as Tax Map/Lot T39SR1E, Section 8DB, Lot 200, consisting of approximately 27.25 acres of land. (hereinafter "Property").

4) The same claimants apparently own or owned adjacent property Tax Map/Lot T39SR1E, Section 8DB, Lot 600, outside the City of Ashland. This adjacent parcel was the subject of a May 3, 2007 Jackson County Order # 280-07, regarding a Measure 37 claim.

5) The property is vacant and is accessed off the end of Hitt Road, which at this point is an undeveloped right-of-way.

6) The property is entirely located within the City limits of the City of Ashland and is within the City of Ashland Urban Growth Boundary.

7) The property has an Ashland Comprehensive Plan map designation of Woodland Residential. The property is also zoned WR-Woodland Residential.

8) Woodland Residential Zoning (W-R), adopted in 1982, provides for the following:

18.14 W-R Woodland Residential District

18.14.010 Purpose

The purpose of the W-R district is to stabilize and protect the steep and forested areas within the City. Application of the zone will ensure that the forest, environmental erosion control and scenic values of these areas are protected from incompatible development which could result in a degradation of their values.

18.14.020 Permitted uses

The following uses and their accessory uses are permitted outright:

A. Single family dwellings.
B. Agriculture and farm uses, except animal sales yards and feed yards, hog farms and any animal fed garbage.
C. Parks and recreation facilities.
D. Home occupations.

18.14.030 Conditional Uses

The following uses and their accessory uses are permitted when authorized in accordance with Chapter 18.104, Conditional Use Permits:

A. Churches and similar religious institutions.
B. Public and public utility buildings, structures and uses, but not including corporation, storage or repair yards, warehouses and similar uses.
C. Private recreational uses and facilities, provided that the forested character of the area is not disturbed.
D. Public and quasi-public halls, lodges and clubs.
E. Schools, both public and private.
F. Daycare centers.
G. Homes for the elderly and nursing homes.
H. Disc antenna for commercial use.
I. Nonconforming use or structure changes required by Section 18.68.090.
J. Temporary uses.
K. Wireless Communication Facilities when attached to existing structures and authorized pursuant to Section 18.72.180.

18.14.040 General Regulations

A. Minimum lot area. The minimum lot area in the W-R zone is determined by the chart below:

Slope	Min. Lot Size	DU/Acre
Less than 40%	2.0	.5
40 to 50%	2.5	.4
50 to 60%	5.0	.2
Over 60%	10.0	.1
Outside UGB	20.0	.05

B. Maximum lot coverage. The maximum lot coverage shall be seven (7%) percent.
C. Minimum lot width. All lots shall be at least one hundred (100) feet in width.
D. Minimum lot depth. All lots shall be at least one hundred-fifty (150) feet in depth.
E. Standard yard requirements.
   1. Minimum front yard - There shall be a front yard of at least twenty (20) feet.
   2. Minimum side yard - There shall be a minimum side yard of six (6) feet, except ten (10) feet along a side yard facing the street on a corner lot.
   3. Minimum rear yard - There shall be a minimum rear yard of ten (10) feet plus ten (10) feet for each story in excess of one (1) story.
   4. In addition, the setbacks must comply with Section 18.70 of this Title which provides for solar access.
F. Maximum building height. No structure shall be over thirty-five (35) feet or two and one-half (2 1/2) stories in height, whichever is less.
G. Aggregate removal prohibited. There shall be no mining of granite for aggregate, quarry rock or other open pit mining in this zone.
H. Limits on density transfer. All developments, with the exception of partitioning, must be developed under the Performance Standards, Chapter 18.88. No more than twenty-five (25%) percent of the density allowed in a Woodland Residential zone may be transferred to a higher density zone in a Performance Standard development.

9) The vast majority of the property contains slopes over 35%, these areas are denominated as "severe constraints" on the maps in the Record (see ***Attachments B & C***). Only a small portion of the total site contains 0%-15% slopes and 16% -25% slopes.

10) The Physical and Environmental Constraints Chapter, AMC 18.62 (adopted May 19, 1987, and replaced with Ordinance 2528 on July 7, 1989) established regulations by land classification. Hillside Lands, identified on the Physical Constraints Overlay map are those areas which have a slope of 25 percent or greater, are subject to additional public safety regulations. Such lands are identified as subject to damage from erosion and slope failure. The AMC 18.62.080 Hillside regulations are attached hereto and incorporated herein as ***Attachment A***.

III. FINDINGS APPLYING APPLICABLE CRITERIA

11) The Council finds and determines that the relevant approval criteria are found in or referenced in Section 9 and 10 of Measure 49. Also implicated in this decision are ALUO criteria for W-R Zoning and Physical and Environmental Constraints Permit Requirements, specifically Hillside Lands.

12) The Council finds that it has received all information necessary to make a tentative decision.

13) The Council finds and determines that this proposal to develop 10 unit single-family residential subdivision pursuant to Section 9 and 10 of Measure 49, does not meet all applicable

criteria for approval of a Measure 49 claim. This finding is supported by the detailed findings set forth herein as well as by competent substantial evidence in the whole Record.

14) Criterion: [Section 9(1)]

(1) A claimant that *filed* a claim under ORS 197.352 on or before the date of adjournment sine die of the 2007 regular session of the Seventy-Fourth Legislative Assembly for property located, in whole or in part, within an urban growth boundary may establish one to 10 single-family dwellings on the portion of the property located within the urban growth boundary.

Adjournment sine die of the 2007 Oregon legislature occurred on June 28, 2007. A Measure 37 claim was filed with the Community Development Department on November 29, 2008 for George and Patsy Harshman. (The claim should have been directed to the City Administrator per City Ordinance). The application was deemed incomplete on February 16, 2007 when City Administrator Martha Bennett mailed a letter to Attorney Cox, notifying him, among other things, of a failure to include all owners, (noting the omission of an application from Tri-W Group owner of 50% of the parcel). Mr. Cox responded by submitting evidence that the City Planning Department signed for receipt of the Tri-W Group application on November 29, 2006. The City received a copy of the Tri-W claim on March 12, 2007 with additional information on the Harshman claim. This claim application was also deemed incomplete by the City Administrator on July 5, 2007.

The City of Ashland Measure 37 claims procedure ordinance, then in effect, provided as follows:

> **B.** Demands for just compensation shall be submitted to the City Administrator. No demand for just compensation shall be deemed submitted until all materials required by this section have been provided to the City Administrator by the current owner. A notice of submission shall be sent to the current owner at the time the City Administrator determines the current owner's demand for just compensation has been deemed submitted.
>
> **C.** Notwithstanding a claimant's failure to provide all of the information and/or the application processing fee required by subsection (A) of this section, the city may review and act on a claim.

The claimant wrote N/A next to "deemed complete" on the M49 application. The code language above indicates that a claim is not deemed submitted until all materials are provided. The City Administrator requested in her February 16, 2007 letter to Attorney Cox if the applicant intended to supplement the submittal or whether the applicant intended to have the submittal deemed complete (i.e. no intention to supplement). In the subsequent March submittal by Attorney Cox, the Attorney submitted missing material (including the Tri-W materials) and it is apparent that the Attorney contemplated the claim would be processed, as is, unless the City would notify the attorney if additional materials were required. The Administrator did not make a determination on the resubmission until after the adjournment of the legislative session. Council finds and determines that a claim by both Harshman and Tri-W was *filed* with the City prior to 2007 adjournment, despite the fact that the applications were not deemed submitted under the City

ordinance because they were found to be incomplete. Under Measure 37, the applicant arguably had the right to proceed with the claim in Court despite the local determination of whether the materials submitted were sufficient to process the claim.

The actual timing of the second application (Tri-W Group) is also important. Section 10(5) of the Act states that if a Measure 37 claim is submitted after December 4, 2006, it must include a denial of a final land use decision or it is ineligible for relief under Section 9 of the Act. The Council finds and determines that the proof of mailing and receipt by the Planning Department on November 29, 2006 is enough to satisfy the requirement to submit the claim prior to December 4, 2006. The City has no evidence to refute the Attorney's claim and postal receipt that the materials were signed for at the Planning Department and later misplaced. Accordingly, this first threshold requirement (eligibility to file) is met. Note: The omission of Mrs. Harshman on the paperwork for the M49 claim is not seen as significant.

15) Criterion: [Section 9(2)]

(2) The number of single-family dwellings that may be established on the portion of the property located within the urban growth boundary under this section may not exceed the *lesser* of:

(a) The number … described in the claim filed with … a city…;

The original claim was for $3,750,000 to $8,902,000 based on development of :

> "as many lots as could be serviced by on site sewer. with community water each lot could have been 20,000 square feet."

The property is 27.25 acres. Accordingly, the number of single family residential lots in the claim far exceeds 10.

(b) 10, …. ; or

As noted below, the claim is amended to claim ten (10) single family lots and units.

(c) The number of single family dwelling that total value of which represents just compensation for the reduction in fair market value caused by the enactment of one or more land use regulations that were the basis for the claim, set forth in subsection (6) of this section.

> ***NOTE: Section 9, Subsection 6 of the Act provides:***
>
> ***6. The reduction in the fair market value of the property caused by the enactment of one or more land use regulations that were the basis of the claim is equal to the decrease, if any, in the fair market value of the property from the date that is one year before the enactment of the land use regulation to the date that is one year***

after the enactment, plus interest. If the claim is based on the enactment of more than one land use regulation enacted on different dates, the reduction in the fair market value of the property caused by each regulation shall be determined separately and the values added together to calculate the total reduction in fair market value. The reduction in fair market value shall be adjusted by any ad valorem property taxes not paid as a result of any special assessment of the property under ORS 308A.050 to 308.A.128, 321.257 to 321.390, 321.700 to 321.754 or 321.805 to 321.855, plus interest, offset by any severance taxes paid by the claimant and by any recapture of potential additional tax liability that the claimant has paid or will pay for the property if the property is disqualified from special assessment under ORS 308A.703. Interest shall be computed under this subsection using the average interest rate for a one-year United States Government Treasury Bill on December 31 of each year of the period between the date the land use regulation was enacted and the date the claim was filed, compounded annually on January 1 of each year of the period.

The City's M49 application form clearly states:

"Applicant must complete the following and submit supporting documentation concerning (a) (b) and (c) below and note the lesser of (a) (b) and (c) here: _____"

The claimant only wrote "See attached – 10 now requested"

No analysis on the form and no supporting documentation or information concerning the required analysis under subsection (c) "reduction of fair market value" meeting the standards established in Section 9, subsection (6) was provided with the application. The Applicant appears to assume ten (10) single family dwelling lots and units can be applied for under Section 9; however, it is clear that the applicant must demonstrate eligibility of the lesser of : (a) the claim (b) 10 or (c) the number of units equal to the value of the reduction in fair market value as calculated by Section 9, Subsection (6) of the Act. Accordingly, as a consequence of the failure to submit an appraisal under Subsection (6), the Council further finds and determines that application is fatally flawed and disqualified from relief under Section 9 of Measure 49. As noted above, Section 10 (3) of the Act provides that failure to file the notice *and required information* with the public entity *within 120 days* after the date the public entity mails the notice, precludes relief under Section 9 of Measure 49. As a practical matter, in addition to the disqualification, this failure makes it impossible for the claimant to demonstrate that ten (10) lots/units is the appropriate number of lots/units (i.e. the lesser of) to be awarded under section 9 as the reduction in value calculation has not been and cannot be performed.

As discussed more fully below, if the reduction in value calculation had actually been performed, it is not inconceivable that the reduction in value calculation would result in a value equal to less than ten units. This is because the majority of the land development regulations the claimant identifies (e.g. W-R Zoning) are likely "exempt" land development regulations as they are essentially "restricting or prohibiting activities for the

protection of public health and safety" including specifically "landslides" "pollution control regulations" as well as nuisance regulation – e.g. erosion control).

(3) if the number of single-family dwellings described in … a claim filed with … a city … is more than 10, the claimant may amend the claim to reduce the number to no more than 10 by filing a notice of the amendment with the information required by Section 10 of this Act.

The May 20, 2008 filing indicates:

"Claimants elect to amend their Measure 37 claims. Claimants seek relief pursuant to Measure 49, Section 9 and 10. Claimants seek the right to permit, without limitation, the creation, division, development, and/or subsequent sale of 10 (two acre) legal lots with a single family dwelling on each lot."

(4) If multiple claims were filed for the same property, the number of single family dwellings that may be established for purposes of subsection (2)(a) of this section is … The number in the most recent claim filed with … a city … but not more than 10 in any case.

The multiple claims (by different ownership interests) have now been consolidated into one joint application requesting ten (10) residential lots and units.

16) Criterion: [Section 9(5)]

(5) To qualify for relief provided by this section, the claimant must have filed a claim for the property with the city or county in which the property is located. In addition, regardless of whether a waiver was issued by Metro, a city or a county before the effective date of this 2007 Act, to qualify for relief under this section, the claimant must establish that:

(a) The claimant is an owner of the property;

Claimants George Harshman and Tri-W Group L.P are the legal owners of the property as tenants in common.

(b) All owners of the property have consented in writing to the claim;

The Record reflects Attorney William Cox is authorized to file the application on behalf of all owners.

(c) The property is located, in whole or in part, within an urban growth boundary;

The property is located entirely within the City of Ashland Urban Growth Boundary.

(d) On claimant's acquisition date, the claimant lawfully was permitted to establish at least the number of dwellings on the property that are authorized under this section;

The current owners have different acquisition dates, although as members of different legal entities their involvement in the property can be traced to 1965. George Harshman formally acquired a 50% undivided interest in the property *by deed* in 1979. Tri-W Group L.P. formally acquired an undivided interest in the property in 1998. While the claimant George Harshman argues for a 1965 acquisition date based on "confirmation" of an undivided 50% interest in the property in 1970 from then owner Continental Construction Company Inc., this is not supported by deed records. Similarly, although Virginia Wilt may have been involved in a corporation acquiring ownership in 1965, the property was owned by a corporate entity, and was subsequently conveyed, several times. For purposes of this joint M 49 application the earliest formal date of acquisition by a current owner, (May 3, 1979 acquisition date of George Harshman) is used. The City Council expressly rejects the implication by the claimants that it must find a 1965 acquisition date because Jackson County, in an M 37 Order now voided by Measure 49, concerning an adjacent parcel owned by the same claimants was found by the County to have a 1965 acquisition date.

(e) The property is zoned for residential use;

The property is zoned W-R, a residential zone. Single family residential use is a permitted use in the zone, subject to lot size requirements.

(f) One or more land use regulations <u>prohibit</u> establishing the single-family dwellings;

Under this criterion, the application only notes, "see M37 claim file."

The City's M49 claim form notes the revised definition of land development regulations, as follows:

> (14) "<u>Land use regulation</u>" means: (a) A statute that establishes a minimum lot or parcel size; (b) A provision in ORS 227.030 to 227.300, 227.350, 227.400, 227.450 or 227.500 or in ORS chapter 215 that restricts the residential use of private real property; (c) A provision of a city comprehensive plan, zoning ordinance or land division ordinance that restricts the residential use of private real property zoned for residential use; (d) A provision of a county comprehensive plan, zoning ordinance or land division ordinance that restricts the residential use of private real property; (e) A provision of the Oregon Forest Practices Act or an administrative rule of the State Board of Forestry that regulates a forest practice

and that implements the Oregon Forest Practices Act; (f) ORS 561.191, a provision of ORS 568.900 to 568.933 or an administrative rule of the State Department of Agriculture that implements ORS 561.191 or 568.900 to 568.933; (g) An administrative rule or goal of the Land Conservation and Development Commission; or (h) A provision of a Metro functional plan that restricts the residential use of private real property.

(22) "Zoned for residential use" means zoning that has as its primary purpose single-family residential use

The text of Section 9, Measure 49, calls for identification of "land use regulations" which "prohibit" establishment of residential dwellings; this prohibition (if pursuant to a non-exempt regulation) and the associated reduction in value per Section (9)(2)(c) and subsection(6) is "compensated" with an award of single family residential lots and units in an amount which is the lesser of (a) the number set forth in the M37 claim (b) 10 or (c) the number of units represented by the reduction in value due to non-exempt regulations prohibiting the residential use. By contrast, the text of Measure 37 more generally concerned land use regulations that restrict uses permitted on the real property; and the restriction imposed by the land use regulation has the effect of causing a reduction in the fair market value of the real property. The standard is different and thus claimant's reference to "see M37 claim file" is inadequate.

The November 2006 M37 claim itself was extremely generic in regard to identification of regulations. While the "Woodland Residential District" was specifically mentioned, otherwise the claim simply referenced the Ashland Community Development Code as well as "each and every" land development regulation which restricts the use of the claimants property. The W-R Zoning District does not prohibit residential uses; the District only restricts residential uses based on an increasing minimum parcel size that corresponds with increases in property slope. For example, the W-R Zone's general regulations provide:

A. Minimum lot area. The minimum lot area in the W-R zone is determined by the chart below:

Slope	Min. Lot Size	DU/Acre
Less than 40%	2.0	.5
40 to 50%	2.5	.4
50 to 60%	5.0	.2
Over 60%	10.0	.1
Outside UGB	20.0	.05

The subject property would have a minimum lot size of 2.0 to10.0 acres depending upon the exact determination of slope on the subject 27.25 acres. While the applicant has not prepared an application, the City staff estimates up to eight (8) units might be permitted based on zoning alone.

Unlike the W-R District, the Physical and Environmental Constraints Chapter, specifically the overlay for Hillside Lands, land classification does prohibit residential uses on severe slopes, with an exemption allowing one residential unit on a lot of record. This overlay is

however, clearly within the exempt regulation definition of 197.352(3) (now renumbered).

(g) The establishment of the single –family dwellings is not permitted by a land use regulation described in ORS 197.352(3) [i.e. an exempt regulation];

Under this criterion, the application also notes, "see M37 claim file." The application makes no attempt to address the clarified definition of exempt regulations under Measure 49, as opposed to Measure 37. The City's M49 claim form notes the clarification of exempt regulations:

> (3) Subsection (1) of this section shall not apply to land use regulations that were enacted prior to the claimant's acquisition date or to land use regulations:
>
> (a) Restricting or prohibiting activities commonly and historically recognized as public nuisances under common law;
>
> (b) Restricting or prohibiting activities for the protection of public health and safety; [(18) "Protection of public health and safety" means a law, rule, ordinance, order, policy, permit or other governmental authorization that restricts a use of property in order to reduce the risk or consequence of fire, earthquake, landslide, flood, storm, pollution, disease, crime or other natural or human disaster or threat to persons or property including, but not limited to, building and fire codes, health and sanitation regulations, solid or hazardous waste regulations and pollution control regulations.]
>
> (c) To the extent the land use regulation is required to comply with federal law; or [(6) "Federal law" means: (a) A statute, regulation, order, decree or policy enacted by a federal entity or by a state entity acting under authority delegated by the federal government; (b) A requirement contained in a plan or rule enacted by a compact entity; or (c) A requirement contained in a permit issued by a federal or state agency pursuant to a federal statute or regulation.]
>
> (d) Restricting or prohibiting the use of a property for the purpose of selling pornography or performing nude dancing.

The regulations identified above are clearly exempt land development regulations. The W-R Zone is established as a public safety regulation, specifically the district recognizes landslides and erosion control are primary purposes of the regulation (to a lesser degree aesthetics is also implicated). The W-R Zone's purposes statement states:

> The purpose of the W-R district is to stabilize and protect the steep and forested areas within the City. Application of the zone will ensure that the forest, environmental erosion control and scenic values of these areas are protected from incompatible development which could result in a degradation of their values.

Similarly, the regulations contained in the Physical and Environmental Constraints Chapter Overlay, specifically regulations for Hillside Lands (set forth in Attachment A) are clearly exempt regulations. Damage to adjacent properties by uncontrolled runoff and erosion concerns a commonly and historically recognized public nuisance. Similarly, the overlay's regulations to control erosion of property and to *minimize risks* or *minimize consequences* of landslides and wildfires are clearly contemplated within Measure 49's definition of exempt regulations. Accordingly, reduction in value calculations – had they been performed, cannot include reduction based on these exempt regulations.

(h) The land use regulation described in paragraph (f) of this subsection was enacted after the date the property, or any portion of the property, was brought into the urban growth boundary;

The property has been part of the City and the urban growth boundary since the UGB was established. Accordingly, the regulations were enacted after inclusion in the UGB.

(i) [applicable only to Metro]

(j) If the property is within a City, the land use regulation that is the basis for the claim was enacted after the date the property was annexed to the city; and

The property has been part of the City limits for several decades. Accordingly, the regulations were enacted after inclusion in the City limits.

(k) The enactment of one or more land use regulations, other than land use regulations described in ORS 197.352(3), that are the basis for the claim caused a reduction in the fair market value of the property, as determined under subsection (6) of this section, that is equal to or greater than the fair market value of the single family dwellings that may be established on the property under subsection (2) of this section. (emphasis added)

See findings located elsewhere in this document concerning claimant's failure to submit a qualifying appraisal, and the exempt status of the identified regulations, said findings being incorporated herein by this reference.

(6) The reduction in the fair market value of the property caused by the enactment of one or more land use regulations that were the basis of the claim is equal to the decrease, if any, in the fair market value of the property from the date that is one year before the enactment of the land use regulation to the date that is one year after the enactment, plus interest. If the claim is based on the enactment of more than one land use regulation enacted on different dates, the reduction in the fair market value of the property caused by each regulation shall be determined separately and the values added together to calculate the total reduction in fair market value. The

reduction in fair market value shall be adjusted by any ad valorem property taxes not paid as a result of any special assessment of the property under ORS 308A.050 to 308.A.128, 321.257 to 321.390, 321.700 to 321.754 or 321.805 to 321.855, plus interest, offsetby any severance taxes paid by the claimant and by any recapture of potential additional tax liability that the claimant has paid or will pay for the property if the property is disqualified from special assessment under ORS 308A.703. Interest shall be computed under this subsection using the average interest rate for a one-year United States Government Treasury Bill on December 31 of each year of the period between the date the land use regulation was enacted and the date the claim was filed, compounded annually on January 1 of each year of the period.

(7) For purposes of subsection (6) of this section, a claimant must provide an appraisal showing the fair market value of the property one year before the enactment of the land use regulation that was the basis for the claim and the fair market value of the property one year after the enactment. The appraisal also must show the fair market value of each single-family dwelling to which the claimant is entitled under subsection (2) of this section, along with evidence of any ad valorem property taxes not paid, any severance taxes paid and any recapture of additional tax liability that the owner has paid or will pay for the property if the property is disquialified from special assessment under ORS 308A.703. The actual and reasonable cost of preparing the claim, including the cost of the appraisal, not to exceed $5000, may be added to the calculation of the reduction in fair market valuwe under Section 7 (6) of this 2007 Act. The appraisal must:

(a) Be prepared by a person certified under ORS chapter 674 or a person registered under ORS chapter 308;

(b) Comply with the Uniform Standards of Professional Appraisal Practice, as authorized by the Financial Institutions Reform, Recovery and Enforcement Act of 1989; and

(c) Expressly determine the highest and best use of the property at the time the land use regulation was enacted.

(8) Relief may not be granted under this section if the highest and best use of the property was not residential use at the time the land use regulation was enacted.

(9) When Metro, a city or county has issued a final decision authorizing one or more single family dwellings under this section on the portion of the property located within the urban growth boundary, the claimant may seek other governmental authorizations required by law for that use, and the land use regulation enacted by a public entity that has the effect of prohibiting the use does not apply to the review of the authorizations, except as provided in section 11 of this 2007 Act. If Metro is reviewing … [N/A]

(10) The only types of land use that are authorized by this section are the subdivisions or partition of land for one or more single-family dwellings, or the establishment of one or more single-family dwellings on land on which the dwellings would not otherwise be allowed.

As noted above, no qualifying appraisal complying with Section 9, subsection 6 – 8 of the Act was submitted with the claim. The Attorney's cover letter indicates "claimants have been unable to retain a certified appraiser …" Failure to follow the guidance of the City M 49 claim form to submit the required information within the time provided by the Act has resulted in disqualification of the claim. Specifically, Section 10 (3) of the Act provides specifically that if the claimant fails to file the notice *and required information* with the public entity *within 120 days* after the date the public entity mails the notice, the claimant is not entitled to relief under Section 9 of Measure 49. In addition, the failure to file the required information (appraisal) makes determination of compliance with the standards for relief, impossible. Finally, the primary regulations controlling development of this property are exempt regulations under Measure 49. Accordingly, the claimant is not entitled to relief under Measure 49.

IV. ORDER

Accordingly, based on the above Findings of Fact and Conclusions of Law, and based upon the evidence in the whole Record, the City Council hereby TENATIVELY DENIES the claim by George Harshman and Tri-W Group, *et. al*., under Section 9 and 10 of Measure 49 requesting "ten (10) (two acre) legal lots with a single family dwelling on each lot" and concerning 27.25 acres of land located at Tax Map/Lot T39SR1E, Section 8DB, Lot 200. The claim is tentatively denied for the reasons set forth above, included but not limited to the fact that the claim is disqualified for failure to submit required information (specifically a qualifying appraisal) within 120 days of the City's notice and for failure to demonstrate compliance with the requirements of Section 9 of the Act, specifically failure to demonstrate a reduction in value caused by non-exempt regulations prohibiting residential use.

Ashland City Council

_____
Mayor John W. Morrison

Signature authorized and approved by the full Council this ____ day of September, 2008

Approved as to form:

_____ Date: _____
Ashland City Attorney

Attachment A.

18.62.080 Development Standards for Hillside Lands

It is the purpose of the Development Standards for Hillside Lands to provide supplementary development regulations to underlying zones to ensure that development occurs in such a manner as to protect the natural and topographic character and identity of these areas, environmental resources, the aesthetic qualities and restorative value of lands, and the public health, safety, and general welfare by insuring that development does not create soil erosion, sedimentation of lower slopes, slide damage, flooding problems, and severe cutting or scarring. It is the intent of these development standards to encourage a sensitive form of development and to allow for a reasonable use that complements the natural and visual character of the city.

A. General Requirements. The following general requirements shall apply in Hillside Lands:

1. All development shall occur on lands defined as having buildable area. Slopes greater than 35% shall be considered unbuildable except as allowed below. Variances may be granted to this requirement only as provided in section 18.62.080.H.

a. Existing parcels without adequate buildable area less than or equal to 35% shall be considered buildable for one unit.

b. Existing parcels without adequate buildable area less than or equal to 35% cannot be subdivided or partitioned.

2. All newly created lots either by subdivision or partition shall contain a building envelope with a slope of 35% or less.

3. New streets, flag drives, and driveways shall be constructed on lands of less than or equal to 35% slope with the following exceptions:

a. The street is indicated on the City's Transportation Plan Map - Street Dedications.

b. The portion of the street, flag drive, or driveway on land greater than 35% slope does not exceed a length of 100 feet.

4. Geotechnical Studies. For all applications on Hillside Lands involving subdivisions or partitions, the following additional information is required:

A geotechnical study prepared by a geotechnical expert indicating that the site is stable for the proposed use and development. The study shall include the following information:

a. Index map.

b. Project description to include location, topography, drainage, vegetation, discussion of previous work and discussion of field exploration methods.

c. Site geology, based on a surficial survey, to include site geologic maps, description of bedrock and surficial materials, including artificial fill, locations of any faults, folds, etc..., and structural data including bedding, jointing and shear zones, soil depth and soil structure.

d. Discussion of any off-site geologic conditions that may pose a potential hazard to the site, or that may be affected by on-site development.

e. Suitability of site for proposed development from a geologic standpoint.

f. Specific recommendations for cut and fill slope stability, seepage and drainage control or other design criteria to mitigate geologic hazards.

g. If deemed necessary by the engineer or geologist to establish whether an area to be affected by the proposed development is stable, additional studies and supportive data shall include cross-sections showing subsurface structure, graphic logs with subsurface exploration, results of laboratory test and references.

h. Signature and registration number of the engineer and/or geologist.

i. Additional information or analyses as necessary to evaluate the site.

j. Inspection schedule for the project as required in 18.62.080.B.9.

k. Location of all irrigation canals and major irrigation pipelines.

B. Hillside Grading and Erosion Control. All development on lands classified as hillside shall provide plans conforming with the following items:

1. All grading, retaining wall design, drainage, and erosion control plans for development on Hillside Lands shall be designed by a geotechnical expert. All cuts, grading or fills shall conform to the International Building Code and be consistent with the provisions of this Title. Erosion control measures on the development site shall be required to minimize the solids in runoff from disturbed areas.

2. *For development other than single family homes on individual lots, all grading, drainage improvements, or other land disturbances shall only occur from May 1 to October 31. Excavation shall not occur during the remaining wet months of the year. Erosion control measures shall be installed and functional by October 31. Up to 30 day modifications to the October 31 date, and 45 day modification to the May 1 date may be made by the Planning Director, based upon weather conditions and in consultation with the project geotechnical expert. The modification of dates shall be the minimum necessary, based upon evidence provided by the applicant, to accomplish the necessary project goals.*

3. *Retention in natural state. On all projects on Hillside Lands involving partitions and subdivisions, and existing lots with an area greater than one-half acre, an area equal to 25% of the total project area, plus the percentage figure of the average slope of the total project area, shall be retained in a natural state. Lands to be retained in a natural state shall be protected from damage through the use of temporary construction fencing or the functional equivalent.*

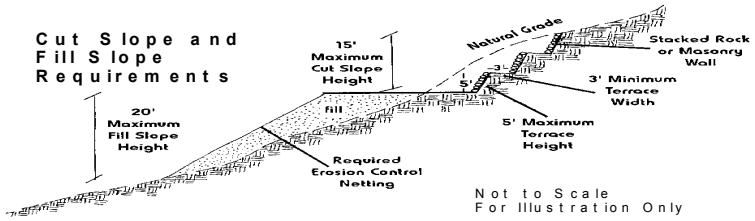
   For example, on a 25,000 sq. ft. lot with an average slope of 29%, 25%+29%=54% of the total lot area shall be retained in a natural state.

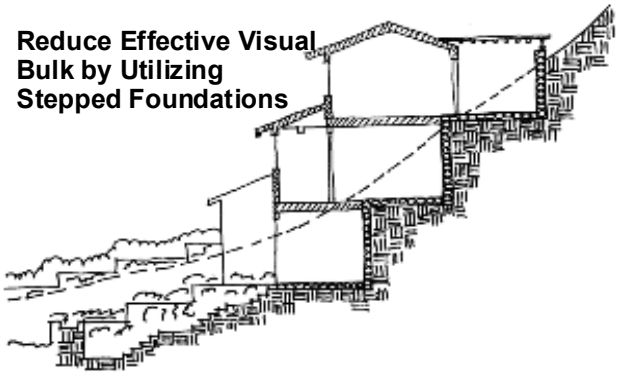
   The retention in a natural state of areas greater than the minimum percentage required here is encouraged.

4. *Grading - cuts. On all cut slopes on areas classified as Hillside lands, the following standards shall apply:*

   a. *Cut slope angles shall be determined in relationship to the type of materials of which they are composed. Where the soil permits, limit the total area exposed to precipitation and erosion. Steep cut slopes shall be retained with stacked rock, retaining walls, or functional equivalent to control erosion and provide slope stability when necessary. Where cut slopes are required to be laid back (1:1 or less steep), the slope shall be protected with erosion control getting or structural equivalent installed per manufacturers specifications, and revegetated.*

   b. *Exposed cut slopes, such as those for streets, driveway accesses, or yard areas, greater than seven feet in height shall be terraced. Cut faces on a terraced section shall not exceed a maximum height of five feet. Terrace widths shall be a minimum of three feet to allow for the introduction of vegetation for erosion control. Total cut slopes shall not exceed a maximum vertical height of 15 feet. (See Graphic)*





The top of cut slopes not utilizing structural retaining walls shall be located a minimum setback of one-half the height of the cut slope from the nearest property line.

Cut slopes for structure foundations encouraging the reduction of effective visual bulk, such as split pad or stepped footings shall be exempted from the height limitations of this section. (See Graphic)

c. Revegetation of cut slope terraces shall include the provision of a planting plan, introduction of top soil where necessary, and the use of irrigation if necessary. The vegetation used for these areas shall be native or species similar in resource value which will survive, help reduce the visual impact of the cut slope, and assist in providing long term slope stabilization. Trees, bush-type plantings and cascading vine-type plantings may be appropriate.

5. Grading - fills. On all fill slopes on lands classified as Hillside Lands, the following standards shall apply:

a. Fill slopes shall not exceed a total vertical height of 20 feet. The toe of the fill slope area not utilizing structural retaining shall be a minimum of six feet from the nearest property line.(Ord 2834 S6, 1998)

b. Fill slopes shall be protected with an erosion control netting, blanket or functional equivalent. Netting or blankets shall only be used in conjunction with an organic mulch such as straw or wood fiber. The blanket must be applied so that it is in complete contact with the soil so that erosion does not occur beneath it. Erosion netting or blankets shall be securely anchored to the slope in accordance with manufacturer's recommendations.

c. Utilities. Whenever possible, utilities shall not be located or installed on or in fill slopes. When determined that it necessary to install utilities on fill slopes, all plans shall be designed by a geotechnical expert.

d. Revegetation of fill slopes shall utilize native vegetation or vegetation similar in resource value and which will survive and stabilize the surface. Irrigation may be provided to ensure growth if necessary. Evidence shall be required indicating long-term viability of the proposed vegetation for the purposes of erosion control on disturbed areas.

6. Revegetation requirements. Where required by this chapter, all required revegetation of cut and fill slopes shall be installed prior to the issuance of a certificate of occupancy, signature of a required survey plat, or other time as determined by the hearing authority. Vegetation shall be installed in such a manner as to be substantially established within one year of installation.

7. Maintenance, Security, and Penalties for Erosion Control Measures.

a. Maintenance. All measures installed for the purposes of long-term erosion control, including but not limited to vegetative cover, rock walls, and landscaping, shall be maintained in perpetuity on all

areas which have been disturbed, including public rights-of-way. The applicant shall provide evidence indicating the mechanisms in place to ensure maintenance of measures.

b. Security. Except for individual lots existing prior to January 1, 1998, after an Erosion Control Plan is approved by the hearing authority and prior to construction, the applicant shall provide a performance bond or other financial guarantees in the amount of 120% of the value of the erosion control measures necessary to stabilize the site. Any financial guarantee instrument proposed other than a performance bond shall be approved by the City Attorney. The financial guarantee instrument shall be in effect for a period of at least one year, and shall be released when the Planning Director and Public Works Director determine, jointly, that the site has been stabilized. All or a portion of the security retained by the City may be withheld for a period up to five years beyond the one year maintenance period if it has been determined by the City that the site has not been sufficiently stabilized against erosion.

8. Site Grading. The grading of a site on Hillside Lands shall be reviewed considering the following factors:

a. No terracing shall be allowed except for the purposes of developing a level building pad and for providing vehicular access to the pad.

b. Avoid hazardous or unstable portions of the site.(Ord 2834,S2 1998)

c. Avoid hazardous or unstable portions of the site.

d. Building pads should be of minimum size to accommodate the structure and a reasonable amount of yard space. Pads for tennis courts, swimming pools and large lawns are discouraged. As much of the remaining lot area as possible should be kept in the natural state of the original slope.

9. Inspections and Final Report. Prior to the acceptance of a subdivision by the City, signature of the final survey plat on partitions, or issuance of a certificate of occupancy for individual structures, the project geotechnical expert shall provide a final report indicating that the approved grading, drainage, and erosion control measures were installed as per the approved plans, and that all scheduled inspections, as per 18.62.080.A.4.j were conducted by the project geotechnical expert periodically throughout the project.

C. Surface and Groundwater Drainage. All development on Hillside Lands shall conform to the following standards:

1. All facilities for the collection of stormwater runoff shall be required to be constructed on the site and according to the following requirements:

a. Stormwater facilities shall include storm drain systems associated with street construction, facilities for accommodating drainage from driveways, parking areas and other impervious surfaces, and roof drainage systems.

b. Stormwater facilities, when part of the overall site improvements, shall be, to the greatest extent feasible, the first improvements constructed on the development site.

c. Stormwater facilities shall be designed to divert surface water away from cut faces or sloping surfaces of a fill.

d. Existing natural drainage systems shall be utilized, as much as possible, in their natural state, recognizing the erosion potential from increased storm drainage..

e. Flow-retarding devices, such as detention ponds and recharge berms, shall be used where practical to minimize increases in runoff volume and peak flow rate due to development. Each facility shall consider the needs for an emergency overflow system to safely carry any overflow water to an acceptable disposal point.

f. Stormwater facilities shall be designed, constructed and maintained in a manner that will avoid erosion on-site and to adjacent and downstream properties.

g. Alternate stormwater systems, such as dry well systems, detention ponds, and leach fields, shall be designed by a registered engineer or geotechnical expert and approved by the City' s Public Works Department or City Building Official.

D. Tree Conservation, Protection and Removal. All development on Hillside Lands shall conform to the following requirements:

1. Inventory of Existing Trees. A tree survey at the same scale as the project site plan shall be prepared, which locates all trees greater than six inches d.b.h., identified by d.b.h., species, approximate extent of tree canopy. In addition, for areas proposed to be disturbed, existing tree base elevations shall be provided. Dead or diseased trees shall be identified. Groups of trees in close proximity (i.e. those within five feet of each other) may be designated as a clump of trees, with the predominant species, estimated number and average diameter indicated. All tree surveys shall have an accuracy of plus or minus two feet. The name, signature, and address of the site surveyor responsible for the accuracy of the survey shall be provided on the tree survey.

Portions of the lot or project area not proposed to be disturbed by development need not be included in the inventory.

2. Evaluation of Suitability for Conservation. All trees indicated on the inventory of existing trees shall also be identified as to their suitability for conservation. When required by the hearing authority, the evaluation shall be conducted by a landscape professional. Factors included in this determination shall include:

a. Tree health. Healthy trees can better withstand the rigors of development than non-vigorous trees.

b. Tree Structure. Trees with severe decay or substantial defects are more likely to result in damage to people and property.

c. Species. Species vary in their ability to tolerate impacts and damage to their environment.

d. Potential longevity.

e. Variety. A variety of native tree species and ages.

f. Size. Large trees provide a greater protection for erosion and shade than smaller trees.

3. Tree Conservation in Project Design. Significant trees (2' d.b.h. or greater conifers and 1' d.b.h. or greater broadleaf) shall be protected and incorporated into the project design whenever possible.

a. Streets, driveways, buildings, utilities, parking areas, and other site disturbances shall be located such that the maximum number of existing trees on the site are preserved, while recognizing and following the standards for fuel reduction if the development is located in Wildfire Lands.

b. Building envelopes shall be located and sized to preserve the maximum number of trees on site while recognizing and following the standards for fuel reduction if the development is located in Wildfire Lands.

c. Layout of the project site utility and grading plan shall avoid disturbance of tree protection areas.

4. Tree Protection. On all properties where trees are required to be preserved during the course of development, the developer shall follow the following tree protection standards:

a. All trees designated for conservation shall be clearly marked on the project site. Prior to the start of any clearing, stripping, stockpiling, trenching, grading, compaction, paving or change in ground elevation, the applicant shall install fencing at the drip line of all trees to be preserved adjacent to or in the area to be altered. Temporary fencing shall be established at the perimeter of the dripline. Prior to grading or issuance of any permits, the fences may be inspected and their location approved by the Staff Advisor. (see 18.61.200)

b. Construction site activities, including but not limited to parking, material storage, soil compaction and concrete washout, shall be arranged so as to prevent disturbances within tree protection areas.

c. No grading, stripping, compaction, or significant change in ground elevation shall be permitted within the drip line of trees designated for conservation unless indicated on the grading plans, as approved by the City, and landscape professional. If grading or construction is approved within the dripline, a landscape professional may be required to be present during grading operations, and shall have authority to require protective measures to protect the roots.

d. Changes in soil hydrology and site drainage within tree protection areas shall be minimized. Excessive site run-off shall be directed to appropriate storm drain facilities and away from trees designated for conservation.

e. Should encroachment into a tree protection area occur which causes irreparable damage, as determined by a landscape professional, to trees, the project plan shall be revised to compensate for the loss. Under no circumstances shall the developer be relieved of responsibility for compliance with the provisions of this chapter.

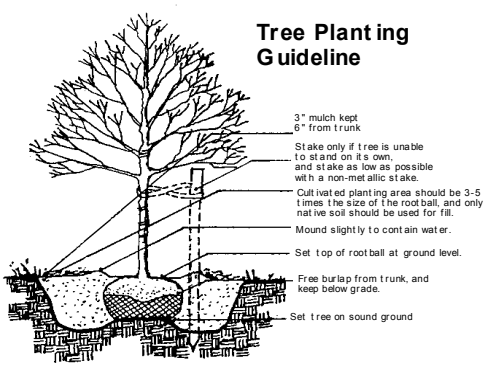
5. Tree Removal. Development shall be designed to preserve the maximum number of trees on a site. The development shall follow the standards for fuel reduction if the development is located in Wildfire Lands. When justified by findings of fact, the hearing authority may approve the removal of trees for one or more of the following conditions: (Ord 2834 S3, 1998)

a. The tree is located within the building envelope.
b. The tree is located within a proposed street, driveway, or parking area.
c. The tree is located within a water, sewer, or other public utility easement.
d. The tree is determined by a landscape professional to be dead or diseased, or it constitutes an unacceptable hazard to life or property when evaluated by the standards in 18.62.080.D.2.
e. The tree is located within or adjacent to areas of cuts or fills that are deemed threatening to the life of the tree, as determined by a landscape professional.

6. Tree Replacement. Trees approved for removal, with the exception of trees removed because they were determined to be diseased, dead, or a hazard, shall be replaced in compliance with the following standards:

a. Replacement trees shall be indicated on a tree replanting plan. The replanting plan shall include all locations for replacement trees, and shall also indicate tree planting details.(Ord 2834 S4, 1998)

b. Replacement trees shall be planted such that the trees will in time result in canopy equal to or greater than the tree canopy present prior to development of the property. The canopy shall be designed to mitigate of the impact of paved and developed areas, reduce surface erosion and increase slope stability.. Replacement tree locations shall consider impact on the wildfire prevention and control plan. The hearing authority shall have the discretion to adjust the proposed replacement tree canopy based upon site-specific evidence and testimony.



c. Maintenance of replacement trees shall be the responsibility of the property owner. Required replacement trees shall be continuously maintained in a healthy manner. Trees that die within the first five years after initial planting must be replaced in kind, after which a new five year replacement period shall begin. Replanting must occur within 30 days of notification unless otherwise noted. (Ord 2834 S5, 1998)

7. Enforcement.

a. All tree removal shall be done in accord with the approved tree removal and replacement plan. No trees designated for conservation shall be removed without prior approval of the City of Ashland.

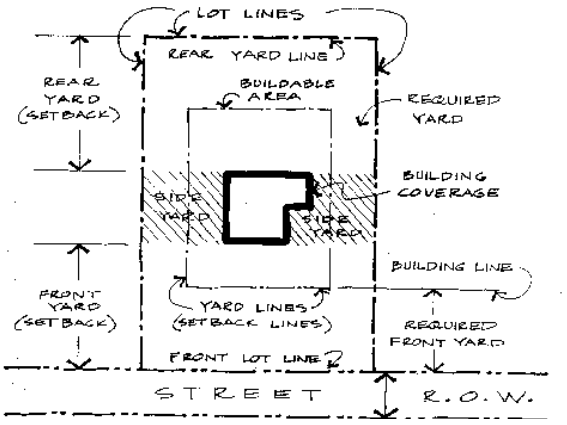
b. Should the developer or developer's agent remove or destroy any tree that has been designated for conservation, the developer may be fined up to three times the current appraised value of the replacement trees and cost of replacement or up to three times the current market value, as established by a professional arborist, whichever is greater.

c. Should the developer or developer's agent damage any tree that has been designated for protection and conservation, the developer shall be penalized $50.00 per scar. If necessary, a professional arborist's report, prepared at the developer's expense, may be required to determine the extent of the damage. Should the damage result in loss of appraised value greater than determined above, the higher of the two values shall be used.

E. Building Location and Design Standards. All buildings and buildable areas proposed for Hillside Lands shall be designed and constructed in compliance with the following standards:

1. Building Envelopes. All newly created lots, either by subdivision or partition, shall contain building envelopes conforming to the following standards:

a. The building envelope shall contain a buildable area with a slope of 35% or less.



b. Building envelopes and lot design shall address the retention of a percentage of the lot in a natural state as required in 18.62.080.B.3.

c. Building envelopes shall be designed and located to maximize tree conservation as required in 18.62.080.D.3. while recognizing and following the standards for fuel reduction if the development is located in Wildfire Lands

d. It is recommended that building envelope locations should be located to avoid ridgeline exposures, and designed such that the roofline of a building within the envelope does not project above the ridgeline.

2. *Building Design. To reduce hillside disturbance through the use of slope responsive design techniques, buildings on Hillside Lands, excepting those lands within the designated Historic District, shall incorporate the following into the building design and indicate features on required building permits:*

a. Hillside Building Height. The height of all structures shall be measured vertically from the natural grade to the uppermost point of the roof edge or peak, wall, parapet, mansard, or other feature perpendicular to that grade. Maximum Hillside Building Height shall be 35 feet. (graphics available on original ordinance)

b. Cut buildings into hillsides to reduce effective visual bulk.

(1). Split pad or stepped footings shall be incorporated into building design to allow the structure to more closely follow the slope.

(2). Reduce building mass by utilizing below grade rooms cut into the natural slope.

c. A building stepback shall be required on all downhill building walls greater than 20 feet in height, as measured above natural grade. Stepbacks shall be a minimum of six feet. No vertical walls on the downhill elevations of new buildings shall exceed a maximum height of 20 feet above natural grade. (see graphic)

d. Continuous horizontal building planes shall not exceed a maximum length of 36 feet. Planes longer than 36 feet shall include a minimum offset of six feet. (graphic available on original ordinance)

e. It is recommended that roof forms and roof lines for new structures be broken into a series of smaller building components to reflect the irregular forms of the surrounding hillside. Long, linear unbroken roof lines are discouraged. Large gable ends on downhill elevations should be avoided, however smaller gables may be permitted. (graphic available on original ordinance)

f. It is recommended that roofs of lower floor levels be used to provide deck or outdoor space for upper floor levels. The use of overhanging decks with vertical supports in excess of 12 feet on downhill elevations should be avoided.

g. It is recommended that color selection for new structures be coordinated with the predominant colors of the surrounding landscape to minimize contrast between the structure and the natural environment

F. All structures on Hillside Lands shall have foundations which have been designed by an engineer or architect with demonstrable geotechnical design experience. A designer, as defined, shall not complete working drawings without having foundations designed by an engineer.

G. All newly created lots or lots modified by a lot line adjustment must include a building envelope on all lots that contains a buildable area less than 35% slope of sufficient size to accommodate the uses permitted in the underlying zone, unless the division or lot line adjustment is for open space or conservation purposes.

H. Administrative Variance From Development Standards for Hillside Lands - 18.62.080. A variance under this section is not subject to the variance requirements of section 18.100 and may be granted with respect to the development standards for Hillside Lands if all of the following circumstances are found to exist:

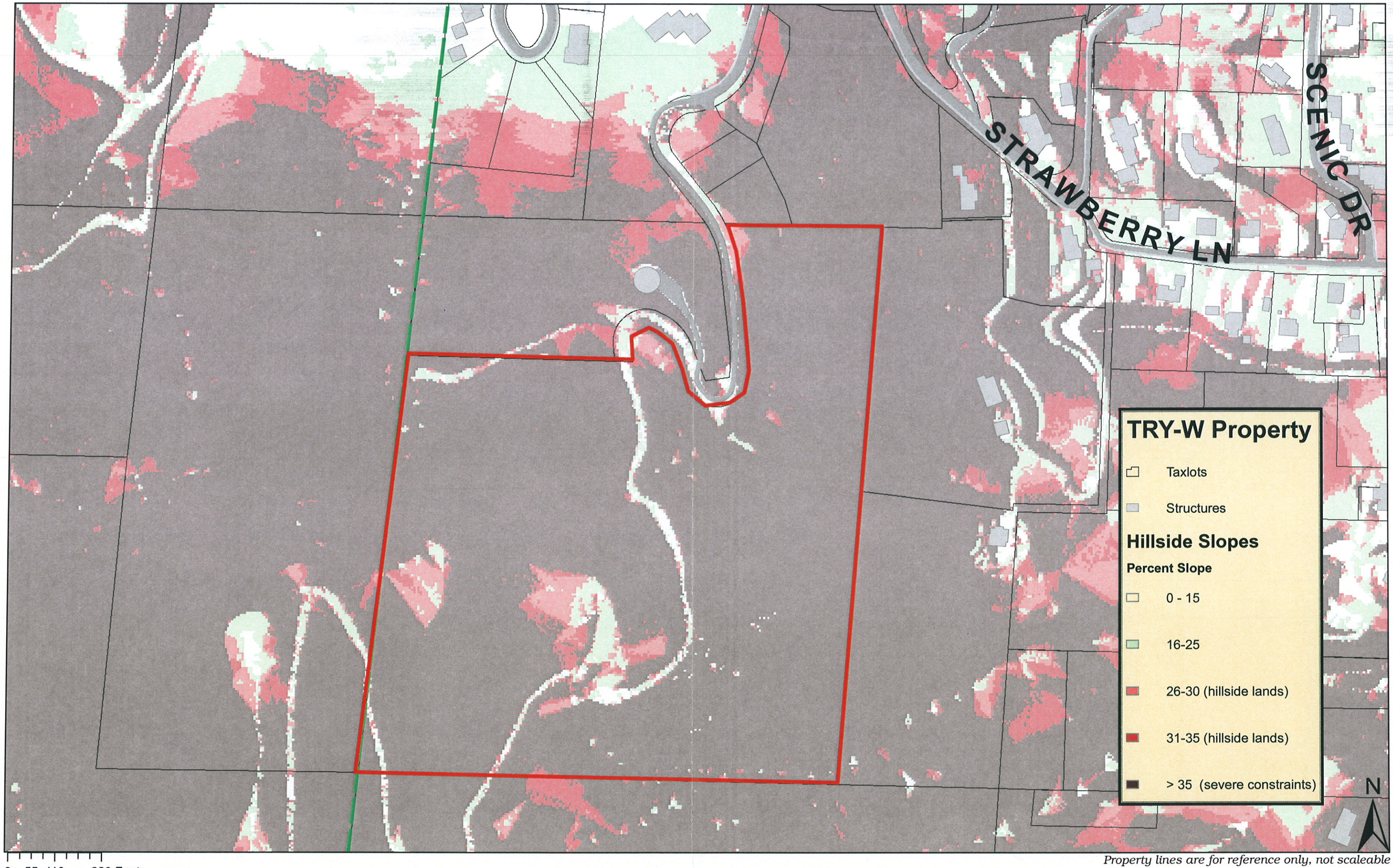
1. *There is demonstrable difficulty in meeting the specific requirements of this chapter due to a unique or unusual aspect of the site or proposed use of the site;*
2. *The variance will result in equal or greater protection of the resources protected under this chapter;*
3. *The variance is the minimum necessary to alleviate the difficulty; and*
4. *The variance is consistent with the stated Purpose and Intent of the Physical and Environmental Constraints Chapter and section 18.62.080.*

Appeals of decisions involving administrative variances shall be processed as outlined in 18.108.070.

Attachment B. (Slope Map)

Attachment C. (Topographic map)

'B'



Property lines are for reference only, not scaleable

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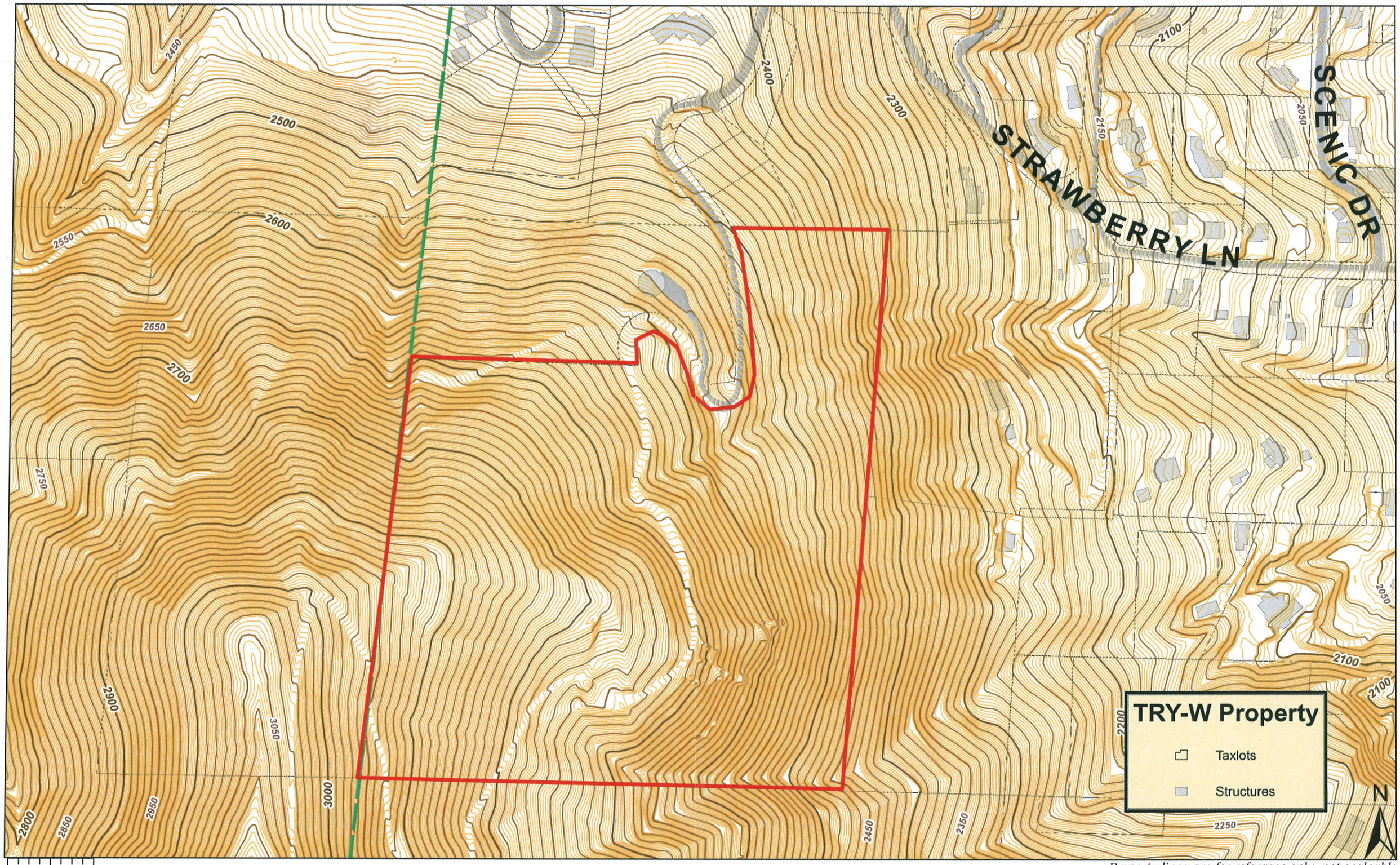

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